

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DENNIS KOESTERER, on behalf of himself  
and all others similarly situated,  
Plaintiff,

v.

WASHINGTON MUTUAL, INC., KERRY  
K. KILLINGER, DAVID C. SCHNEIDER and  
THOMAS W. CASEY,  
Defendants.

Civil Action No.: 07-cv-09801 (CM)

JOEL ABRAMS and BRIAN ROFFE,  
on behalf of himself and all others similarly  
situated,  
Plaintiff,

v.

WASHINGTON MUTUAL, INC., KERRY  
K. KILLINGER, DAVID C. SCHNEIDER and  
THOMAS W. CASEY,  
Defendants.

Civil Action No.: 07-cv-09806 (AKH)

**DECLARATION OF JEFFREY C. BLOCK  
IN SUPPORT OF MASSACHUSETTS  
PENSION RESERVES INVESTMENT  
MANAGEMENT BOARD'S MOTION  
FOR (1) APPOINTMENT AS LEAD  
PLAINTIFF, (2) APPROVAL OF ITS  
SELECTION OF COUNSEL AS LEAD  
COUNSEL, AND (3) CONSOLIDATION  
OF ALL RELATED ACTIONS**

ROBERT L. GARBER individually and on  
behalf of all others similarly situated,  
Plaintiff,

v.

WASHINGTON MUTUAL, INC., KERRY  
K. KILLINGER, STEPHEN J. ROTELLA, and  
THOMAS W. CASEY,  
Defendants.

Civil Action No.: 07-11422 (UA)

**DECLARATION OF JEFFREY C. BLOCK IN SUPPORT OF MASSACHUSETTS  
PENSION RESERVES INVESTMENT MANAGEMENT BOARD'S MOTION FOR (1)  
APPOINTMENT AS LEAD PLAINTIFF, (2) APPROVAL OF ITS SELECTION OF  
COUNSEL AS LEAD COUNSEL, AND (3) CONSOLIDATION OF ALL RELATED  
ACTIONS**

I, Jeffrey C. Block, declare under penalty of perjury as follows:

1. I am a partner in the law firm of Berman DeValerio Pease Tabacco Burt & Pucillo. I submit this declaration in support of the motion by the Massachusetts Pension Reserves Investment Management Board ("PRIM") for appointment as lead plaintiff, for approval of PRIM's selection of counsel as lead counsel and for consolidation of all related actions.

2. Pursuant to Section 78u-4(a)(3)(A)(i) of the Private Securities Litigation Reform Act of 1995 ("PSLRA"), on November 5, 2007, the law firm of Wolf Popper LLP caused to be published a notice over a national business-oriented wire service, PRNewswire, advising members of the proposed class that a securities class action was filed and that investors had the right to move for appointment as lead plaintiff no later than January 4, 2008. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i)(II). The notice was reprinted, *verbatim*, by *Bloomberg Business News* and *Yahoo Finance*. Attached hereto as Exhibit A are true and accurate copies of those notices.

3. PRNewswire is a national business-oriented news wire and multimedia service that distributed the notice to more than 2,000 different outlets, including *Dow Jones News Retrieval*, *Bloomberg Business News*, *Associated Press* and *Reuters*.

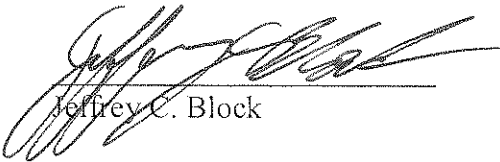
4. PRIM completed a certification form in accordance with Section 78u-4(a)(3)(B)(iii)(I)(aa) of the PSLRA. Attached hereto as Exhibit B is a true and accurate copy of its certification.

5. During the Class Period, PRIM suffered losses of \$6,972,670 based on a first-in, first-out (“FIFO”) analysis and \$4,192,302 based on a last-in, first-out (“LIFO”) analysis from their trading in Washington Mutual, Inc. securities. Attached as Exhibit C is a table calculating PRIM’s losses on its investments in Washington Mutual, Inc.

7. A true and accurate copy of Berman DeValerio Pease Tabacco Burt & Pucillo’s firm resume is annexed hereto as Exhibit D.

8. A true and accurate copy of local counsel Zwerling, Schachter & Zwerling LLP’s firm resume is annexed hereto as Exhibit E.

Signed under the pains and penalties of perjury this 4<sup>th</sup> day of January, 2008.



Jeffrey C. Block

## EXHIBIT A

3 of 4 DOCUMENTS

Copyright 2007 PR Newswire Association LLC.  
All Rights Reserved.  
PR Newswire

November 5, 2007 Monday 7:18 PM GMT

**LENGTH:** 629 words

**HEADLINE:** Wolf Popper Announces Filing of Securities Class Action Lawsuit Against Washington Mutual, Inc. - WM

**DATELINE:** NEW YORK Nov. 5

**BODY:**

NEW YORK, Nov. 5 /PRNewswire/ -- Wolf Popper LLP has filed a class action lawsuit against Washington Mutual, Inc. ("Washington Mutual")(NYSE:WM)and certain of its officers and directors in the United States District Court for the Southern District of New York, on behalf of investors who purchased Washington Mutual common stock on the open market from July 19, 2006 through October 31, 2007 (the "Class Period"). This is the first action filed against Washington Mutual and alleges claims for securities fraud. The case has been assigned Civil Action No. 07 Civ. 9801.

The complaint charges that during the Class Period Washington Mutual improperly exerted pressure on a third-party appraisal firm, eAppraiseIT (a division of the First American Corporation), to inflate the appraised value of homes used as collateral for loans originated by Washington Mutual. Washington Mutual failed to disclose this scheme, which violated federal and state laws and regulations requiring an independent appraisal process. The inflated appraisals caused Washington Mutual's financial results to be misstated, including causing its loan assets to be overstated while its provision for doubtful accounts and reserves for loan losses were materially understated.

On October 17, 2007, Washington Mutual revealed that its anticipated fourth quarter 2007 writedowns of home loan assets would be \$1.3 billion greater than previously disclosed. These writedowns were caused, at least in part, by the impairment of loan assets that were originated based on the inflated appraisals fraudulently orchestrated by the defendants. Between October 17 and October 31, Washington Mutual's stock price declined by \$5.19 per share, or 15.6%.

On November 1, 2007, the Attorney General of the State of New York filed a lawsuit against First American Corporation and eAppraiseIT, alleging their complicity in a scheme to provide inflated appraisals to Washington Mutual. On November 1, 2007 and November 2, 2007, following the announcement of the NY AG's lawsuit against First American, Washington Mutual shares fell further, closing at \$23.81 on November 2, 2007, down \$4.07 per share, or 15%, from the October 31, 2007 closing price.

If you purchased or acquired Washington Mutual common stock during the Class Period, you may move the court no later than January 4, 2008, and request that the Court appoint you as lead plaintiff. A lead plaintiff is a representative party acting on behalf of other class members in directing the litigation. To be appointed lead plaintiff, the Court must decide that your claim is typical of the claims of other class members, and that you will adequately represent the class. Your share in any recovery will not be enhanced or diminished by the decision whether or not to serve as a lead plaintiff.

Wolf Popper LLP has extensive experience representing shareholders in class actions and has successfully recovered billions of dollars for defrauded investors and shareholders. The reputation and expertise of the firm in shareholder and other class action litigation has been repeatedly recognized by the courts, which have appointed the firm to major positions in complex multi-district and consolidated litigations.

For more information or to pursue your right to be appointed lead plaintiff, please contact:  
Wolf Popper LLP  
James Harrod, Esq.

Wolf Popper Announces Filing of Securities Class Action Lawsuit Against Washington Mutual, Inc. - WM PR  
Newswire November 5, 2007 Monday 7:18 PM GMT

845 Third Avenue  
New York, NY 10022  
Tel.: 212.759.4600 or 877.370.7703 (toll free)  
Fax: 212.486.2093 or 877.370.7704 (toll free)  
Email:  
irrep@wolfpopper.com  
website:  
<http://www.wolfpopper.com>  
/

Attorney Advertising -- Prior results do not guarantee a similar outcome

CONTACT: James Harrod, Esq. of Wolf Popper LLP, +1-212-759-4600 or  
+1-877-370-7703, [irrep@wolfpopper.com](mailto:irrep@wolfpopper.com)

Web site: <http://www.wolfpopper.com/>

SOURCE Wolf Popper LLP

URL: <http://www.prnewswire.com>

LOAD-DATE: November 6, 2007

<MENU> to return to headlines.  
26 <GO> to find next.

EquityNSE

Search	"WOLF*" AND "POP"	GO	Options	Related Info	PRN Nov 5 2007 14:18:44
Wolf Popper Announces Filing of Securities Class Action Lawsuit					Page 1/4
Against Washington Mutual, Inc. - WM					

NEW YORK, Nov. 5 /PRNewswire/ -- Wolf Popper LLP has filed a class action lawsuit against Washington Mutual, Inc. ("Washington Mutual") (NYSE: WM) and certain of its officers and directors in the United States District Court for the Southern District of New York, on behalf of investors who purchased Washington Mutual common stock on the open market from July 19, 2006 through October 31, 2007 (the "Class Period"). This is the first action filed against Washington Mutual and alleges claims for securities fraud. The case has been assigned Civil Action No. 07 Civ. 9801.

The complaint charges that during the Class Period Washington Mutual improperly exerted pressure on a third-party appraisal firm, eAppraiseIT (a division of the First American Corporation), to inflate the appraised value of homes used as collateral for loans originated by Washington Mutual. Washington Mutual failed to disclose this scheme, which violated federal and state laws and regulations requiring an independent appraisal process. The inflated appraisals caused Washington Mutual's financial results to be misstated, including causing its loan assets to be overstated while its

Australia 61 2 9777 8600 Brazil 5511 3048 4500 Europe 44 20 7330 7500 Germany 49 69 920410 Hong Kong 852 2977 6000  
Japan 81 3 3201 8900 Singapore 65 6212 1000 U.S. 1 212 318 2000 Copyright 2007 Bloomberg Finance L.P.  
6718-429-0 12-Dec-2007 15:04:10

<MENU> to return to headlines.  
26 <GO> to find next.

Equity**NSE**

Search	"WOLF" AND "POP"	GO	Options	Related Info	PRN Nov 5 2007 14:18:44
--------	------------------	----	---------	--------------	-------------------------

Wolf Popper Announces Filing of Securities Class Action Lawsuit Page 2/4  
provision for doubtful accounts and reserves for loan losses were materially understated.

On October 17, 2007, Washington Mutual revealed that its anticipated fourth quarter 2007 writedowns of home loan assets would be \$1.3 billion greater than previously disclosed. These writedowns were caused, at least in part, by the impairment of loan assets that were originated based on the inflated appraisals fraudulently orchestrated by the defendants. Between October 17 and October 31, Washington Mutual's stock price declined by \$5.19 per share, or 15.6%.

On November 1, 2007, the Attorney General of the State of New York filed a lawsuit against First American Corporation and eAppraiseIT, alleging their complicity in a scheme to provide inflated appraisals to Washington Mutual. On November 1, 2007 and November 2, 2007, following the announcement of the NY AG's lawsuit against First American, Washington Mutual shares fell further, closing at \$23.81 on November 2, 2007, down \$4.07 per share, or 15%, from the October 31, 2007 closing price.

If you purchased or acquired Washington Mutual common stock during the Class Period, you may move the court no later than January 4, 2008, and

Australia 61 2 9777 8600 Brazil 5511 3048 4500 Europe 44 20 7330 7500 Germany 49 69 920410 Hong Kong 852 2977 6000  
Japan 81 3 3201 8900 Singapore 65 6212 1000 U.S. 1 212 318 2000 Copyright 2007 Bloomberg Finance L.P.  
6718-429-0 12-Dec-2007 15:04:15



<MENU> to return to headlines.  
26 <GO> to find next.

Equity**NSE**

Search	"WOLF" AND "POP"	GO	Options	Related Info	PRN Nov 5 2007 14:18:44
Wolf Popper Announces Filing of Securities Class Action Lawsuit					Page 3/4

request that the Court appoint you as lead plaintiff. A lead plaintiff is a representative party acting on behalf of other class members in directing the litigation. To be appointed lead plaintiff, the Court must decide that your claim is typical of the claims of other class members, and that you will adequately represent the class. Your share in any recovery will not be enhanced or diminished by the decision whether or not to serve as a lead plaintiff.

Wolf Popper LLP has extensive experience representing shareholders in class actions and has successfully recovered billions of dollars for defrauded investors and shareholders. The reputation and expertise of the firm in shareholder and other class action litigation has been repeatedly recognized by the courts, which have appointed the firm to major positions in complex multi-district and consolidated litigations.

For more information or to pursue your right to be appointed lead plaintiff, please contact:

Wolf Popper LLP  
James Harrod, Esq.  
845 Third Avenue

Australia 61 2 9777 8600 Brazil 5511 3048 4500 Europe 44 20 7330 7500 Germany 49 69 920410 Hong Kong 852 2977 6000  
Japan 81 3 3201 8900 Singapore 65 6212 1000 U.S. 1 212 318 2000 Copyright 2007 Bloomberg Finance L.P.  
6718-429-0 12-Dec-2007 15:05:20

<MENU> to return to headlines.  
26 <GO> to find next.

Equity**NSE**

Search	"WOLF" AND "POP"	GO	Options	Related Info	PRN Nov 5 2007 14:18:44
Wolf Popper Announces Filing of Securities Class Action Lawsuit					Page 4/4

New York, NY 10022  
Tel.: 212.759.4600 or 877.370.7703 (toll free)  
Fax: 212.486.2093 or 877.370.7704 (toll free)  
Email: [irrep@wolfpopper.com](mailto:irrep@wolfpopper.com)  
website: [www.wolfpopper.com](http://www.wolfpopper.com)

Attorney Advertising -- Prior results do not guarantee a similar outcome

SOURCE Wolf Popper LLP

**CONTACT:**

James Harrod, Esq. of Wolf Popper LLP, +1-212-759-4600 or +1-877-370-7703,  
[irrep@wolfpopper.com](mailto:irrep@wolfpopper.com)  
-0- Nov/05/2007 19:18 GMT



Welcome, **abgoodin**  
[Sign Out, My Account]

[Finance Home](#) - [Help](#)



Welcome [Sign In]

To track stocks & more, [Register](#)

## Financial News

Enter symbol(s)

Basic

Get

Symbol Lookup

Press Release

Source: Wolf Popper LLP

## Wolf Popper Announces Filing of Securities Class Action Lawsuit Against Washington Mutual, Inc. - WM

Monday November 5, 2:18 pm ET

NEW YORK, Nov. 5 /PRNewswire/ -- Wolf Popper LLP has filed a class action lawsuit against Washington Mutual, Inc. ("Washington Mutual") (NYSE: [WM](#) - News) and certain of its officers and directors in the United States District Court for the Southern District of New York, on behalf of investors who purchased Washington Mutual common stock on the open market from July 19, 2006 through October 31, 2007 (the "Class Period"). This is the first action filed against Washington Mutual and alleges claims for securities fraud. The case has been assigned Civil Action No. 07 Civ. 9801.

The complaint charges that during the Class Period Washington Mutual improperly exerted pressure on a third-party appraisal firm, eAppraiseIT (a division of the First American Corporation), to inflate the appraised value of homes used as collateral for loans originated by Washington Mutual. Washington Mutual failed to disclose this scheme, which violated federal and state laws and regulations requiring an independent appraisal process. The inflated appraisals caused Washington Mutual's financial results to be misstated, including causing its loan assets to be overstated while its provision for doubtful accounts and reserves for loan losses were materially understated.

On October 17, 2007, Washington Mutual revealed that its anticipated fourth quarter 2007 writedowns of home loan assets would be \$1.3 billion greater than previously disclosed. These writedowns were caused, at least in part, by the impairment of loan assets that were originated based on the inflated appraisals fraudulently orchestrated by the defendants. Between October 17 and October 31, Washington Mutual's stock price declined by \$5.19 per share, or 15.6%.

On November 1, 2007, the Attorney General of the State of New York filed a lawsuit against First American Corporation and eAppraiseIT, alleging their complicity in a scheme to provide inflated appraisals to Washington Mutual. On November 1, 2007 and November 2, 2007, following the announcement of the NY AG's lawsuit against First American, Washington Mutual shares fell further, closing at \$23.81 on November 2, 2007, down \$4.07 per share, or 15%, from the October 31, 2007 closing price.

If you purchased or acquired Washington Mutual common stock during the Class Period, you may move the court no later than January 4, 2008, and request that the Court appoint you as lead plaintiff. A lead plaintiff is a representative party acting on behalf of other class members in directing the litigation. To be appointed lead plaintiff, the Court must decide that your claim is typical of the claims of other class members, and that you will adequately represent the class. Your share in any recovery will not be enhanced or diminished by the decision whether or not to serve as a lead plaintiff.

Wolf Popper LLP has extensive experience representing shareholders in class actions and has successfully recovered billions of dollars for defrauded investors and shareholders. The reputation and expertise of the firm in shareholder and other class action litigation has been repeatedly recognized by the courts, which have appointed the firm to major positions in complex multi-district and consolidated litigations.

For more information or to pursue your right to be appointed lead plaintiff, please contact:

Wolf Popper LLP  
James Harrod, Esq.  
845 Third Avenue  
New York, NY 10022  
Tel.: 212.759.4600 or 877.370.7703 (toll free)  
Fax: 212.486.2093 or 877.370.7704 (toll free)  
Email: [irrep@wolffpopper.com](mailto:irrep@wolffpopper.com)  
website: [www.wolffpopper.com](http://www.wolffpopper.com)

Attorney Advertising -- Prior results do not guarantee a similar outcome

Source: Wolf Popper LLP

Copyright © 2007 Yahoo! Inc. All rights reserved. [Privacy Policy](#) - [Terms of Service](#) - [Copyright Policy](#) - [Ad Feedback](#)  
Copyright © 2007 [PR Newswire](#). All rights reserved. Reproduction or redistribution of PRNewswire content is expressly prohibited without the prior written consent of PRNewswire. PRNewswire shall not be liable for any errors or delays in the content, or for any actions taken in reliance thereon.

## EXHIBIT B

**PLAINTIFF'S CERTIFICATION**

I, Michael Travaglini, on behalf of the Massachusetts Pension Reserves Investment Management Board ("PRIM"), hereby certify that the following is true and correct to the best of my knowledge, information and belief:

1. I am the Executive Director of PRIM. I have reviewed a copy of the complaint caption *Koesterer v. Washington Mutual, Inc.* filed in this matter. PRIM has authorized the filing of a lead plaintiff motion on behalf of PRIM by Berman DeValerio Pease Tobacco Burt & Pucillo ("Berman DeValerio").

2. PRIM is willing to serve as a lead plaintiff on behalf of the class, including providing testimony at deposition and trial, if necessary.

3. PRIM's transactions in Washington Mutual, Inc. common stock between April 18, 2006 and November 1, 2007 (the "Class Period") are attached as Exhibit C to the Declaration of Jeffrey C. Block (the "Block Decl.").

4. PRIM did not purchase these securities at the direction of counsel or in order to participate in any private action arising under the Securities Exchange Act of 1934.

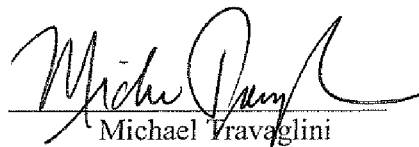
5. During the three year period preceding the date of my signing this Certification, PRIM has sought to serve as representative on behalf of a class in two other actions under the federal securities laws: In re Mills Sec. Litig. (E.D. Va.) and Pappas v. Countrywide Financial Corp. et al. (C.D. Cal.). PRIM does not serve as lead plaintiff in either of these actions.

6. PRIM will not accept any payment for serving as a representative party on behalf of the class beyond its pro rata share of any possible recovery, except for an

award, as ordered or approved by the Court, for reasonable costs and expenses (including lost wages) directly relating to its representation of the class.

7. As Executive Director of PRIM I am duly authorized to sign this Certification on behalf of PRIM.

Signed under the penalties of perjury this 21<sup>st</sup> day of Dec., 2007.

  
Michael Travaglini

## EXHIBIT C



**Washington Mutual Inc. Shareholder Losses (Net)**

Class Period: 4/18/06-11/01/07

\$17.729= Avg. Price 11/02/07 - 01/03/08 (from Bloomberg)

Shareholder: PRIM - Commonwealth of MA Pension Reserves Investment Trust

Trade Date	Shares Bought	Shares Sold	Shares Remaining	Price/Share	(Cost)/Proceeds
06/16/06		(7,400)	(7,400)	\$44.5460	\$329,640.40
08/01/06	12,900		5,500	\$44.4039	(\$572,810.31)
08/28/06		(23,900)	(18,400)	\$43.0800	\$1,029,612.00
09/26/06		(35,800)	(54,200)	\$43.4200	\$1,554,436.00
11/27/06		(14,400)	(68,600)	\$42.6000	\$613,440.00
12/18/06		(25,500)	(94,100)	\$45.1638	\$1,151,676.90
12/26/06		(12,000)	(106,100)	\$45.8900	\$550,680.00
02/06/07		(6,300)	(112,400)	\$45.2516	\$285,085.08
03/01/07	18,300		(94,100)	\$43.0631	(\$788,054.73)
03/16/07		(14,800)	(108,900)	\$39.8860	\$590,312.80
05/03/07		(6,800)	(115,700)	\$42.8719	\$291,528.92
05/21/07	18,600		(97,100)	\$42.8860	(\$797,679.60)
06/01/07	5,200		(91,900)	\$44.3000	(\$230,360.00)
06/01/07	1,600		(90,300)	\$44.3000	(\$70,880.00)
06/01/07	300		(90,000)	\$44.3000	(\$13,290.00)
06/13/07	51,000		(39,000)	\$42.3666	(\$2,160,696.60)
07/18/07	7,800		(31,200)	\$41.7301	(\$325,494.78)
08/24/07	139,900		108,700	\$36.8981	(\$5,162,044.19)
09/04/07	19,000		127,700	\$37.1200	(\$705,280.00)
09/12/07	109,700		237,400	\$35.0588	(\$3,845,950.36)
09/24/07		(4,100)	233,300	\$36.1123	\$148,060.43
10/01/07	11,800		245,100	\$35.6900	(\$421,142.00)
<b>First Partial Disclosure: October 17, 2007</b>					
<b>Subtotals:</b>	396,100	(151,000)			(\$8,549,210.04)
<b>Shares Remaining:</b>		245,100			
<b>Shares Remaining x \$17.729:</b>		\$4,345,378			
<b>Total (Losses)/Profit:</b>		(\$4,203,832)			

**Washington Mutual Inc. Shareholder Losses (LIFO)**

Class Period: 4/18/06-11/01/07

\$17.729= Avg. Price 11/02/07 - 01/03/08 (from Bloomberg)

Shareholder: PRIM - Commonwealth of MA Pension Reserves Investment Trust

Trade Date	Shares Bought	Shares Sold	Shares Remaining	Price/Share	(Cost)/Proceeds
<b>Sales Applied to Pre-Class Period Shares</b>					
<b>Beg Bal as of 4/18/06</b>			<b>341,517</b>		
06/16/06		(7,400)	334,117	\$44.5460	\$329,640.40
08/28/06		(11,000)	323,117	\$43.0800	\$473,880.00
09/26/06		(35,800)	287,317	\$43.4200	\$1,554,436.00
11/27/06		(14,400)	272,917	\$42.6000	\$613,440.00
12/18/06		(25,500)	247,417	\$45.1638	\$1,151,676.90
12/26/06		(12,000)	235,417	\$45.8900	\$550,680.00
02/06/07		(6,300)	229,117	\$45.2516	\$285,085.08
05/03/07		(3,300)	225,817	\$42.8719	\$141,477.27
<b>Class Period Trading</b>					
08/01/06	12,900		12,900	\$44.4039	(\$572,810.31)
08/28/06		(12,900)	0	\$43.0800	\$555,732.00
03/01/07	18,300		18,300	\$43.0631	(\$788,054.73)
03/16/07		(14,800)	3,500	\$39.8860	\$590,312.80
05/03/07		(3,500)	0	\$42.8719	\$150,051.65
05/21/07	18,600		18,600	\$42.8860	(\$797,679.60)
06/01/07	300		18,900	\$44.3000	(\$13,290.00)
06/01/07	1,600		20,500	\$44.3000	(\$70,880.00)
06/01/07	5,200		25,700	\$44.3000	(\$230,360.00)
06/13/07	51,000		76,700	\$42.3666	(\$2,160,696.60)
07/18/07	7,800		84,500	\$41.7301	(\$325,494.78)
08/24/07	139,900		224,400	\$36.8981	(\$5,162,044.19)
09/04/07	19,000		243,400	\$37.1200	(\$705,280.00)
09/12/07	109,700		353,100	\$35.0588	(\$3,845,950.36)
09/24/07		(4,100)	349,000	\$36.1123	\$148,060.43
10/01/07	11,800		360,800	\$35.6900	(\$421,142.00)
10/26/07		(322,900)	37,900	\$28.2717	\$9,128,931.93
10/31/07	300		38,200	\$28.1250	(\$8,437.50)
10/31/07	1,700		39,900	\$28.4030	(\$48,285.10)
10/31/07	2,900		42,800	\$28.4984	(\$82,645.36)
10/31/07	6,400		49,200	\$27.9147	(\$178,654.08)
11/01/07	500		49,700	\$25.7200	(\$12,860.00)
11/01/07	500		50,200	\$26.1776	(\$13,088.80)
11/01/07	700		50,900	\$25.8200	(\$18,074.00)
11/01/07	900		51,800	\$25.8064	(\$23,225.76)
11/01/07	1,200		53,000	\$26.1427	(\$31,371.24)
11/01/07	1,600		54,600	\$26.1109	(\$41,777.44)
11/01/07	2,000		56,600	\$26.2500	(\$52,500.00)
11/01/07	2,200		58,800	\$25.8799	(\$56,935.78)
11/01/07	4,300		63,100	\$26.1650	(\$112,509.50)
11/01/07	6,600		69,700	\$25.8439	(\$170,569.74)
11/01/07	9,100		78,800	\$25.7200	(\$234,052.00)
<b>Subtotals:</b>	437,000	(358,200)			(\$5,605,580.06)
<b>Shares Remaining:</b>		78,800			
<b>Shares Remaining x \$17.729:</b>		\$1,397,045			
<b>Total (Losses)/Profit:</b>		(\$4,208,535)			

**Washington Mutual Inc. Shareholder Losses (FIFO)**

Class Period: 4/18/06-11/01/07

\$17.729= Avg. Price 11/02/07 - 01/03/08 (from Bloomberg)

Shareholder: PRIM - Commonwealth of MA Pension Reserves Investment Trust

Trade Date	Shares Bought	Shares Sold	Shares Remaining	Price/Share	(Cost)/Proceeds
<b>Sales Applied to Pre-Class Period Shares</b>					
<b>Beg Bal as of 4/18/06</b>			<b>341,517</b>		
06/16/06		(7,400)	334,117	\$44.5460	\$329,640.40
08/28/06		(23,900)	310,217	\$43.0800	\$1,029,612.00
09/26/06		(35,800)	274,417	\$43.4200	\$1,554,436.00
11/27/06		(14,400)	260,017	\$42.6000	\$613,440.00
12/18/06		(25,500)	234,517	\$45.1638	\$1,151,676.90
12/26/06		(12,000)	222,517	\$45.8900	\$550,680.00
02/06/07		(6,300)	216,217	\$45.2516	\$285,085.08
03/16/07		(14,800)	201,417	\$39.8860	\$590,312.80
05/03/07		(6,800)	194,617	\$42.8719	\$291,528.92
09/24/07		(4,100)	190,517	\$36.1123	\$148,060.43
10/26/07		(190,517)	0	\$28.2717	\$5,386,239.47
<b>Class Period Trading</b>					
08/01/06	12,900		12,900	\$44.4039	(\$572,810.31)
03/01/07	18,300		31,200	\$43.0631	(\$788,054.73)
05/21/07	18,600		49,800	\$42.8860	(\$797,679.60)
06/01/07	5,200		55,000	\$44.3000	(\$230,360.00)
06/01/07	1,600		56,600	\$44.3000	(\$70,880.00)
06/01/07	300		56,900	\$44.3000	(\$13,290.00)
06/13/07	51,000		107,900	\$42.3666	(\$2,160,696.60)
07/18/07	7,800		115,700	\$41.7301	(\$325,494.78)
08/24/07	139,900		255,600	\$36.8981	(\$5,162,044.19)
09/04/07	19,000		274,600	\$37.1200	(\$705,280.00)
09/12/07	109,700		384,300	\$35.0588	(\$3,845,950.36)
10/01/07	11,800		396,100	\$35.6900	(\$421,142.00)
10/26/07		(132,383)	263,717	\$28.2717	\$3,742,692.46
10/31/07	2,900		266,617	\$28.4984	(\$82,645.36)
10/31/07	1,700		268,317	\$28.4030	(\$48,285.10)
10/31/07	300		268,617	\$28.1250	(\$8,437.50)
10/31/07	6,400		275,017	\$27.9147	(\$178,654.08)
11/01/07	9,100		284,117	\$25.7200	(\$234,052.00)
11/01/07	500		284,617	\$25.7200	(\$12,860.00)
11/01/07	500		285,117	\$26.1776	(\$13,088.80)
11/01/07	700		285,817	\$25.8200	(\$18,074.00)
11/01/07	4,300		290,117	\$26.1650	(\$112,509.50)
11/01/07	2,000		292,117	\$26.2500	(\$52,500.00)
11/01/07	2,200		294,317	\$25.8799	(\$56,935.78)
11/01/07	6,600		300,917	\$25.8439	(\$170,569.74)
11/01/07	900		301,817	\$25.8064	(\$23,225.76)
11/01/07	1,600		303,417	\$26.1109	(\$41,777.44)
11/01/07	1,200		304,617	\$26.1427	(\$31,371.24)
<b>Subtotals:</b>	<b>437,000</b>	<b>(132,383)</b>			<b>(\$12,435,976.41)</b>
<b>Shares Remaining:</b>		<b>304,617</b>			
<b>Shares Remaining x \$17.729:</b>		<b>\$5,400,555</b>			
<b>Total (Losses)/Profit:</b>		<b>(\$7,035,422)</b>			

## EXHIBIT D

# BERMAN DEVALERIO PEASE TABACCO BURT & PUCILLO

## THE FIRM

The law firm of Berman DeValerio Pease Tabacco Burt & Pucillo prosecutes class actions nationwide on behalf of victims of securities and antitrust law violations. Founded in 1982, Berman DeValerio has 30 attorneys in Boston, San Francisco and West Palm Beach. The firm holds leadership positions in dozens of securities and antitrust actions around the country.

The attorneys at Berman DeValerio have prosecuted hundreds of class actions on behalf of defrauded individuals and institutions, recovering billions of dollars overall for clients. In addition to the financial recoveries, the firm has achieved significant changes in corporate governance.

The firm acts as monitoring, evaluation, and/or litigation counsel for more than 60 public and Taft-Hartley pension funds, including three of the four largest pension funds in the nation and more than a quarter of all U.S. public funds with more than \$5 billion in assets under management.

## RESULTS

### Securities Settlements

The firm has negotiated substantial recoveries and corporate governance changes for its clients. The following is a selection of significant results in securities litigation:

In re: WorldCom, Inc. Sec. Litig., 02cv3288 (S.D.N.Y.). As counsel to court-appointed bondholder representatives the County of Fresno, Calif., and the Fresno County Employees' Retirement Association, Berman DeValerio helped a team of lawyers representing the lead plaintiff, the New York State Common Retirement Fund, obtain settlements worth more than \$6.13 billion as of July 2005.

In re: Bristol-Myers Squibb Sec. Litig. (Bristol-Myers 2), 02cv2251 (S.D.N.Y.). Berman DeValerio represented the Fresno County Employees' Retirement Association and the Louisiana State Employees' Retirement System as co-lead plaintiffs, negotiating a cash settlement of \$300 million in July 2004. At that time, the settlement was the largest by a drug company in a U.S. securities fraud case.

In re: El Paso Sec. Litig., H-02-2717 (S.D. Tex.). Representing the Oklahoma Firefighters Pension and Retirement System as co-lead plaintiff, Berman DeValerio helped negotiate a memorandum of understanding to settle claims against the defendants for \$285 million, including \$12 million from auditors PricewaterhouseCoopers. The court granted final approval of the settlement in March 2007.

In re: Digital Lightwave Sec. Litig., 98-152cvT-24C (M.D. Fla.). The Boston office acted as co-lead counsel and the Florida office acted as liaison counsel in negotiating a settlement that included changing company management and strengthening the company's internal financial controls. The class received 1.8 million shares of freely tradable common stock that traded at just below \$4 per share when the court approved the settlement. At the time the shares were distributed to the members of the class, the stock traded at approximately \$100 per share and class members received more than 200% of their losses after the payment of attorneys' fees and expenses. The total value of the settlement, at the time of distribution, was almost \$200 million.

In re: Bristol-Myers Squibb Sec. Litig. (Bristol-Myers 1), 00cv1990, (D.N.J.). The firm negotiated a \$185 million partial settlement with Bristol-Myers and Charles A. Heimbold, Jr., the company's former chairman and chief executive officer. The company also agreed to implement corporate governance reforms. The settlement agreement received final court approval in May 2006.

In re: Symbol Technologies, Inc. Sec. Litig., 2:02cv01383 (E.D.N.Y.). Berman DeValerio represented the Municipal Police Employees' Retirement System of Louisiana as co-lead plaintiff, obtaining a \$139 million partial settlement in June 2004. Subsequently, Symbol's former auditor, Deloitte & Touche LLP, agreed to pay \$24 million. The settlement was approved by the court in September 2006. Lead plaintiffs continue to prosecute claims against individual defendants.

In re: Lernout & Hauspie Sec. Litig., 1:00cv11589 (D. Mass.) and Quaak v. Dexia, S.A., 03-11566 (D. Mass.). As co-lead counsel, Berman DeValerio negotiated the then third largest settlement ever paid by accounting firms in a securities class action – a \$115 million agreement with the U.S. and Belgian affiliates of KPMG International – to settle claims of accounting malpractice. The case stemmed from KPMG's work for Lernout & Hauspie Speech Products, a software company driven into bankruptcy by a massive fraudulent scandal. The firm also reached an additional settlement worth \$5.27 million with certain of Lernout & Hauspie's former top officers and directors. In the related Quaak case, the firm has also negotiated a \$60 million settlement with Dexia Bank Belgium to settle claims stemming from the bank's alleged role in the fraudulent scheme at Lernout & Hauspie. The Dexia settlement was granted final court approval in June 2007. This brings the total value of the settlements to more than \$180 million.

In re: Prison Realty Sec. Litig., 3:99cv0452 (M.D. Tenn.), (In re: Old CCA Sec. Litig., 3:99cv0458). The firm represented the former shareholders of Corrections Corporation of America, which merged with another company to form Prison Realty Trust, Inc. The action charged that the registration statement issued in connection with the merger contained untrue statements. The firm countered arguments that the class' claims of securities fraud were released in prior litigation involving the merger and overcame motions to dismiss. It negotiated a global settlement of approximately \$120 million in cash and stock for this case and other related litigation.



Oracle Cases, Coordination Proceeding, Special Title (Rule 1550(b)) No. 4180 (Cal. Sup. Ct., SM Cty.). In this coordinated derivative action, Oracle Corporation shareholders alleged that the company's CEO, Lawrence J. Ellison, profited from illegal insider trading. Acting as co-lead counsel, the firm reached a settlement under which Mr. Ellison would personally make a charitable donation of \$100 million over five years in Oracle's name to an institution or charity approved by the company and pay \$22 million in attorneys' fees and expenses associated with the prosecution of the case. This innovative agreement, approved by a judge in December 2005, benefited Oracle through increased goodwill and brand recognition, while minimizing issues that would have been raised by a payment from Mr. Ellison to the company, of which he was a large shareholder. In addition, the lawsuit resulted in important changes to Oracle's insider trading policies that decrease the chances that an insider will trade in possession of material, non-public information.

In re: Philip Services Corp. Sec. Litig., 98cv0835 (S.D.N.Y.). As co-lead counsel, Berman DeValerio negotiated a total \$79.75 million settlement with the bankrupt company's former auditors, top officers, directors and underwriters. The case alleges that Philip Services and its top officers and directors made false and misleading statements regarding the company's publicly reported revenues, earnings, assets and liabilities. The court granted final approval of the settlements in March 2007.

In re: Reliant Sec. Litig., 02cv1810 (S.D. Tex.). As lead counsel representing the Municipal Police Employees' Retirement System of Louisiana, the firm negotiated a \$75 million cash settlement from the company and Deloitte & Touche LLP. The settlement agreement was announced in July 2005 and the Court granted final approval in January 2006.

Ehrenreich v. Witter, 95cv6637 (S.D. Fla.). The Florida office acted as co-lead counsel in a case involving Sensormatic Electronics Corp., which resulted in a settlement of \$53.5 million approved in 1998. It was one of the largest class action settlements in the state of Florida.

In re: Thomas & Betts Sec. Litig., 2:00cv2127 (W.D. Tenn.). The firm served as co-lead counsel in this class action, which settled for more than \$51 million. Plaintiffs had accused the company and other defendants of issuing false and misleading financial statements for 1996, 1997, 1998, 1999 and the first two quarters of 2000.

In re: Enterasys Networks, Inc. Sec. Litig., C-02-071-M (D.N.H.). Berman DeValerio acted as sole lead counsel in a case against Enterasys Networks, Inc., in which the Los Angeles County Employees Retirement Association was lead plaintiff. The company settled in October 2003 for \$17 million in cash, stock valued at \$33 million and major corporate governance improvements that opened the computer networking company to greater public scrutiny. Changes included requiring the company to back a proposal to eliminate its staggered board of directors, allowing certain large shareholders to propose

candidates to the board and expanding the company's annual proxy disclosures. The settlement received court approval in December 2003.

Giarraputo v. UNUMProvident Corp., 2:99cv00301 (D. Me.). A member of the executive committee representing plaintiffs, Berman DeValerio secured a \$45 million settlement in a lawsuit stemming from the 1999 merger that created UNUMProvident. Shareholders of both predecessor companies accused the insurer of misleading the public about its business condition before the merger. The settlement received final approval in June 2002.

In re: UCAR International, Inc. Sec. Litig., 98cv0600 (D. Conn.). The firm represented the Florida State Board of Administration as the lead plaintiff in a securities claim arising from an accounting restatement. The case settled for \$40 million cash and the requirement that UCAR appoint an independent director to its board of directors. The settlement was approved in 2000.

In re: SmartForce PLC d/b/a SkillSoft Sec. Litig., 02cv544 (D.N.H.). Representing the Teachers' Retirement System of Louisiana as co-lead plaintiff, Berman DeValerio negotiated a \$30.5 million partial settlement with SkillSoft. Subsequently, the firm also negotiated an \$8 million cash settlement with Ernst & Young Chartered Accountants and Ernst & Young LLP, SkillSoft's auditors at the time. The settlements received final approval in September 2004 and November 2005, respectively.

In re: Centennial Technologies Sec. Litig., 97cv10304 (D. Mass.). The firm served as sole lead counsel a class action involving a massive accounting scandal that shot down the company's high-flying stock. The Boston office negotiated a settlement that permitted a turnaround of the company and provided a substantial recovery for class members. The firm negotiated changes in corporate practice, including a strengthening of internal financial controls and obtained 37% of the company's stock for the class. The firm also recovered \$20 million from Coopers & Lybrand, Centennial's auditor at the time. In addition, the firm recovered \$2.1 million from defendants Jay Alix & Associates and Lawrence J. Ramaekers for a total recovery of more than \$35 million for the class.

In re: Avant, Sec. Litig., 96cv20132 (N.D. Cal.). Avant!, a software company, was charged with securities fraud in connection with its alleged theft of a competitor's software code, which Avant! incorporated into its flagship software product. Serving as lead counsel, the firm recovered \$35 million for the class. The recovery resulted in each eligible class claimant receiving almost 50% of losses net of attorneys' fees and expenses.

In re: Sykes Enterprises, Inc. Sec. Litig., 8:00cv212-T-26F (M.D. Fla.). The firm represented the Florida State Board of Administration as co-lead plaintiff. Sykes Enterprises was accused of using improper means to match the company's earnings with Wall Street's expectations. The firm negotiated a \$30 million settlement, which received final approval in March 2003.



In re: Valence Sec. Litig., 95cv20459 (N.D. Cal.). The California office served as co-lead counsel for the class, litigating against a Silicon Valley-based company that overstated performance and development of an allegedly revolutionary battery technology. After the Ninth Circuit reversed the District Court's decision to grant summary judgment in favor of defendants, the case settled for \$30 million in Valence common stock.

In re: Sybase II, Sec. Litig., 98cv0252-CAL (N.D. Cal.). Sybase was charged with inflating its quarterly financial results by improperly recognizing revenue at its wholly owned subsidiary in Japan. Acting as co-lead counsel, attorneys in the California office obtained a \$28.5 million settlement.

In re: ICG Communications Inc. Sec. Litig., 00cv1864 (D. Colo.). As co-lead counsel representing the Strategic Marketing Analysis Fund, the firm negotiated an \$18 million settlement with ICG Communications Inc. The case alleged that ICG executives misled investors and misrepresented growth, revenues and network capabilities. The court granted final approval of the settlement in January 2007.

In re: Critical Path, Inc. Sec. Litig., 01cv0551 (N.D. Ca.). The firm negotiated a \$17.5 million recovery to settle claims of accounting improprieties at a California software development company. The firm, representing the Florida State Board of Administration, was appointed sole lead counsel in August 2001. Allegations of serious fraud arose shortly after the collapse of Critical Path's stock price and certain former officers were indicted for stock fraud. The difficulties facing the lead plaintiff related to marshalling all available resources to secure a recovery for the class as Critical Path teetered on the edge of bankruptcy. Following negotiations, the case settled for \$17.5 million. The settlement was approved in June 2002.

Hallet v. Li & Fung, Ltd., et al., 95cv08917 (S.D.N.Y.). Cyrk Inc. was charged with misrepresenting its financial results and failing to disclose that its largest customer was ending its relationship with the company. In 1998, the Boston office successfully recovered more than \$13 million for defrauded investors.

In re: Warnaco Group, Inc. Sec. Litig., 00cv6266 (S.D.N.Y.). Representing the Fresno County Employees' Retirement Association as co-lead plaintiff, the firm negotiated a \$12.85 million settlement against several current and former top officers of the company.

Gelfer v. Pegasystems, Inc., et al., 98cv12527 (D. Mass.). As co-lead counsel, the Boston office negotiated a settlement valued at \$12.5 million, \$4.5 million in cash and \$7.5 million in shares of the company's stock or cash, at the company's option.

Sand Point Partners, L.P. v. Pediatrix Medical Group, Inc., 99cv6181 (S.D. Fla.). Berman DeValerio represented the Florida State Board of Administration, which was appointed co-lead plaintiff along with several other public pension funds. The complaint accused Pediatrix of Medicaid billing fraud, claiming that the company illegally increased

revenue and profit margins by improperly coding treatment rendered. The case settled for \$12 million on the eve of trial in 2002, after completion of discovery. As co-lead counsel, the firm prosecuted the case through pre-trial proceedings.

In re: Molten Metal Technology Inc. Sec. Litig., 1:97cv10325 (D. Mass.) and Axler v. Scientific Ecology Group, Inc., et al., 1:98cv10161 (D. Mass.). As co-lead counsel, the Boston office played a key role in settling the actions after Molten Metal and several affiliates filed a petition for bankruptcy reorganization in Massachusetts. The individual defendants and the insurance carriers in Molten Metal agreed to settle for \$11.91 million. After the bankruptcy, a trustee objected to the use of insurance proceeds for the settlement. The parties agreed to pay the trustee \$1.325 million of the Molten Metal settlement. The parties also agreed to settle claims against Scientific Ecology Group for \$1.25 million, giving Molten Metal's investors \$11.835 million.

In re: CHS Electronics, Inc. Sec. Litig., 99-8186-CIV (S.D. Fla.). The firm helped obtain an \$11.5 million settlement for co-lead plaintiff Warburg, Dillon, Read, LLC (now UBS Warburg).

In re: Summit Technology Sec. Litig., 96cv11589 (D. Mass.). The Boston office, as co-lead counsel, negotiated a settlement consisting of \$10 million for the benefit of the class. The action was intensely litigated for four years, resulting in motion practice on the adequacy of the complaint and the issue of class certification, the review and analysis of over a million pages of documents produced by the defendants and 40 third-party witnesses, the depositions of 40 witnesses, the exchange of nine expert reports and the filing of and responding to nine motions for summary judgment.

In re: Exide Corp. Sec. Litig., 98cv60061 (E.D. Mich.). Exide was charged with having altered its inventory accounting system to artificially inflate profits by reselling used, outdated or unsuitable batteries as new ones. The Boston office, as co-lead counsel for the class, recovered more than \$10 million in cash for class members.

In re: Fidelity/Micron Sec. Litig., 95cv12676 (D. Mass.). The firm recovered \$10 million in cash for Micron investors after a Fidelity Fund manager touted Micron while secretly selling the stock.

In re: Interspeed, Inc. Sec. Litig., 00cv12090-EFH (D. Mass.). The Boston office served as co-lead counsel and negotiated a \$7.5 million settlement on behalf of the class. The settlement was reached in an early stage of the proceedings largely as a result of the financial condition of Interspeed and the need to salvage a recovery from its available assets and insurance.

In re: Abercrombie & Fitch Co. Sec. Litig., M21-83 (S.D.N.Y.). As a member of the executive committee in the case, the firm recovered more than \$6 million on behalf of investors. The case alleges that the clothing company misled investors with respect to

declining sales which affected the company's financial condition. The court granted final approval of the settlement in January 2007.

### **Antitrust Settlements**

Over the past two decades, Berman DeValerio has held leadership roles in scores of complex antitrust cases, negotiating substantial settlements for its clients. These include:

In re: Foreign Currency Conversion Fee Antitrust Litig. (MDL 1409) (S.D.N.Y.). The West Palm Beach office, as head of discovery against defendant Citigroup Inc., played a key role in reaching a proposed \$336 million settlement. The agreement settles claims that the defendants, which include the VISA, MasterCard and Diners Club networks and other leading bank members of the VISA and MasterCard networks, violated federal and state antitrust laws in connection with fees charged to U.S. cardholders for transactions effected in foreign currencies. The proposed settlement is subject to final court approval.

Sullivan et al. v. DB Investments, Inc. et al., 04cv02819 (D.N.J.). Representing a group of diamond resellers, Berman DeValerio reached a preliminary settlement of \$295 million on March 31, 2006, with De Beers in the case. De Beers also agreed to adhere to a broad federal antitrust injunction as part of the class action settlement. The proposed settlement requires final court approval.

In re: DRAM Antitrust Litig., M:02cv01486 (N.D. Cal). As liaison counsel, the California office actively participated in this Multi-District Litigation which ultimately resulted in significant settlements with some of the world's leading manufacturers of Dynamic Random Access Memory ("DRAM") chips. The defendant chip-makers allegedly conspired to fix prices of the DRAM memory chips sold in the United States during the class period. The negotiated settlements total nearly \$326 million.

In re: Sorbates Direct Purchaser Antitrust Litig., C 98-4886 CAL (N.D. Cal.). The California office served as lead counsel, alleging that six manufacturers of Sorbates, a food preservative, violated antitrust laws through participation in a worldwide conspiracy to fix prices and allocations to customers in the United States. The firm negotiated a partial settlement of \$82 million with four of the defendants in 2000. Following intensive pretrial litigation, the firm achieved a further \$14.5 million settlement with the two remaining defendants, Japanese manufacturers, in 2002. The total settlement achieved for the class was \$96.5 million.

In re: Disposable Contact Lens Antitrust Litig., MDL 1030 (M.D. Fla.). Attorneys in the Florida office acted as co-lead counsel and chief trial counsel. Representing both a national class and the State of Florida, the firm helped secure settlements from defendants Bausch & Lomb and the American Optometric Association before trial and from Johnson & Johnson after five weeks of trial. The settlements were valued at more than \$92 million and also included significant injunctive relief to make disposable contact lenses available at more discount outlets and at more competitive prices.

In re: Cardizem CD Antitrust Litig., 99-01278 (E.D. Mich.) In another case involving generic drug competition, Berman DeValerio, as co-lead counsel, helped secure an \$80 million settlement from French-German drug maker Aventis Pharmaceuticals and the Andrx Corporation of Florida. The payment to consumers, state agencies and insurance companies settles claims that the companies conspired to prevent the marketing of a less expensive generic version of the blood pressure medication Cardizem CD. The state attorneys general of New York and Michigan joined that case in support of the class.

In re: Toys "R" Us Antitrust Litig., MDL 1211 (E.D.N.Y.). The California office negotiated a \$62 million settlement to answer claims that the retailer violated laws by colluding to cut off or limit supplies of popular toys to stores that sold the products at lower prices. One component of the settlement required Toys "R" Us to donate \$40 million worth of toys to needy children throughout the United States over a three-year period.

In re: Canadian Car Antitrust Litig., 03-md-1532 (D. Me.). In an action against automobile manufacturers and dealer associations, Berman DeValerio reached a partial settlement with defendant Toyota Motor Sales for \$35 million and changes to the company's business practices to be in compliance with the Sherman Antitrust Act. The proposed partial settlement requires court approval.

In re: Industrial Diamonds Antitrust Litig., MDL-948 (S.D.N.Y.). The California office served as co-lead counsel, alleging General Electric and DeBeers conspired to fix, raise and maintain the prices of industrial diamond products in violation of the federal antitrust laws. The action settled for a combined cash and coupon settlement valued at \$26 million.

In re: NASDAQ Market-Makers Antitrust Litig., 94cv3996 (S.D.N.Y.). The firm played a significant role in one of the largest antitrust settlements on record in a case that involved alleged price-fixing by more than 30 NASDAQ Market-Makers on about 6,000 NASDAQ-listed stocks over a four-year period. The settlement was valued at nearly \$1 billion.

In re: Buspirone Antitrust Litig., MDL 1413 (S.D.N.Y.). Berman DeValerio attorneys also played a key role in obtaining a \$535 million agreement from Bristol-Myers Squibb Co. to partially settle claims that the drug company had illegally blocked generic competition for its anxiety medication, BuSpar.

## LEADERSHIP ROLES

The firm has acted as lead or co-lead counsel in dozens of high profile cases, and has played an active role in some of the country's most prominent class actions. The following is a list of active cases where the firm is currently serving as lead or co-lead

counsel for the class or as executive committee member. This list does not include the numerous closed actions where the firm served as lead or co-lead counsel.

### **Securities Class Actions**

- In re: Buca Inc. Sec. Litig., 05cv1762 (D. Minn.) – Co-lead Counsel.
- In re: International Rectifier Corp. Sec. Litig., 07cv02544 (C.D. Cal.) – Co-lead Counsel.
- In re: KLA-Tencor Corp. Sec. Litig., 06cv04065 (N.D. Cal.) – Co-lead Counsel.
- In re: Par Pharmaceutical Sec. Litig., 06cv03226 (D. N.J.) – Member of the Executive Committee.
- In re: Stone & Webster, Inc. Sec. Litig., 00cv10874 (D. Mass.) – Member of the Executive Committee and Liaison Counsel.
- In re: Sunrise Senior Living, Inc. Sec. Litig., 07cv00102 (D.D.C.) – Co-lead Counsel.
- In re: Xcelera.com Sec. Litig., 1:00cv11649 (D. Mass.) – Co-lead Counsel.
- Carlson v. Xerox Corp., 3:00cv1621 (D. Conn.) – Co-lead Counsel.

### **Antitrust Class Actions**

- In re: New Motor Vehicles Canadian Export Antitrust Litig., 03-MD-1532-P-H (D. Me.) – Lead Counsel.
- In re: Abbott Laboratories Norvir Antitrust Litig., 04-1511, 04-4203, (N.D. Cal.) – Lead Counsel.
- In re: Pineapple Antitrust Litig., 04cv00705 (S.D.N.Y.) – Co-lead Counsel.
- In re: Reformulated Gasoline (RFG) Antitrust and Patent Litig., 2:05-ml-01671-CAS-VBK (C.D. Cal.) – Co-lead Counsel.



## TRIAL EXPERIENCE

The firm also has extensive experience in taking securities and antitrust class actions to trial. Over the years, its attorneys have gone to trial against pharmaceutical companies in New York and Boston, a railroad conglomerate in Delaware, one of the nation's largest trustee banks in Philadelphia, a major food retailer in St. Louis, and the top officers of a failed New England bank. The firm also took an environmental products company to trial in Philadelphia and successfully argued the case before a federal appeals court.

The firm has been involved in more trials than most of the firms in the plaintiffs' class action bar. Our trial experience includes:

- White v. Heartland High-Yield Municipal Bond Fund, 00-C-1388 (E. D. Wis.) Jury trial for three weeks; case settled in mid-trial for a PwC settlement of \$8.25 million, the court granted final approval of the settlement in June 2006;
- In re: Disposable Contact Lens Antitrust Litig., MDL 1030 (M.D. Fla.) Settled for \$60 million with defendant Johnson & Johnson after five weeks of trial;
- Gutman, et al v. Howard Savings Bank, et al; 2:90-cv-02397 (D.N.J.);
- Hurley v. Federal Deposit Insurance Corp., 88cv940 (D. Mass.) Bench verdict for plaintiffs;
- Levine, et al. v. Fenster, et. al., 2cv895131 (D.N.J.) \$3 million plaintiffs' verdict following four-week trial;
- In re: Equitec Sec. Litig., 90cv2064 (N.D. Cal.) \$35 million settlement at close of evidence following five-month trial;
- In re: ICN/Viratek Sec. Litig., 87cv4296 (S.D.N.Y.) Hung jury with 8-1 vote in favor of plaintiffs; the case settled for over \$14.5 million after the trial;
- In re: Biogen Sec. Litig., 94cv12177 (D. Mass.) Verdict for defendants;
- Peil v. Speiser, 82-1289 (E.D. Pa. 1985) Securities fraud class action; verdict for defendants after six-week trial; Court of Appeals affirms but adopts "fraud-on-the-market" rule for Third Circuit securities cases;
- Kumpis v. Wetterau, 83-0362-(C3) (E.D. MO Dec. 1985) Securities fraud class action; case settled in mid-trial; and
- Upp v. Mellon, 91-5219 (E.D. Pa. 1992) Bench trial; court finds for class of trust beneficiaries in suit against trustee bank and orders disgorgement of fees; Third Circuit later reversed based on lack of jurisdiction.

## PARTNERS

### **Norman Berman**

In 1982, Norman Berman co-founded Berman DeValerio & Pease, LLP, a predecessor to Berman DeValerio. For the past 25 years, he has focused his practice principally on the complex litigation of cases filed under the federal securities and antitrust laws.

Mr. Berman currently serves as one of the lead attorneys on the ongoing Carlson v. Xerox Corp. litigation. Representing the Louisiana State Employees' Retirement System, Berman DeValerio is co-lead counsel in the case, which alleges that Xerox, several of the company's top officers and its auditor, KPMG LLP, engaged in a scheme to report false and misleading financial results during the four-year class period.

During the course of his career, Mr. Berman has litigated numerous cases to successful resolution, recovering many millions of dollars on behalf of defrauded investors. He was recently among the lead attorneys in the ICG Communications, Inc. and Philips Services, Corp. class actions. In the class action against ICG Communications, he helped to successfully secure an \$18 million settlement. Co-lead plaintiffs in the case alleged that ICG executives misled investors and misrepresented ICG's growth, revenues and network capabilities throughout the class period. In the case against Philip Services, Mr. Berman assisted in negotiating a \$79.75 million settlement. To date, that settlement includes the largest recovery ever obtained from a Canadian auditor.

Mr. Berman has acted as trial counsel in a number of successful cases, including Hurley et al v. Federal Deposit Insurance Corp et al, where the court entered an \$18 million judgment against the failed First Service Bank for Savings, and ICN Securities Litigation, which settled after trial for more than \$14.5 million in 1996. The trial team's work in ICN prompted positive judicial comment.

Prior to co-founding Berman DeValerio & Pease, Mr. Berman was associated with the Boston-based general practice firms Barron & Stadfeld, P.C. and Harold Brown & Associates.

Mr. Berman graduated from Boston University in 1970 and from Suffolk University Law School in 1974. While in law school, he was a member of the Public Defenders Group, and following law school, an intern with the Massachusetts Defenders Committee.

Mr. Berman is co-author of a chapter on expert testimony in a handbook on Massachusetts Evidence published by Massachusetts Continuing Legal Education (MCLE). He is AV rated by Martindale-Hubbell.

Mr. Berman is admitted to practice law in the Commonwealth of Massachusetts and the state of Connecticut and the U.S. Supreme Court.

**Jeffrey C. Block**

A partner in Boston, Jeffrey C. Block focuses his practice on securities litigation and is a member of the case evaluation and monitoring team for institutional clients. He is a main point of contact for many of the firm's public fund clients, including the Los Angeles County Employees Retirement Association, the Illinois State Board of Investment and the Teachers' Retirement System of Louisiana.

Mr. Block has worked on numerous securities cases as a lead attorney at Berman DeValerio, successfully obtaining recoveries on behalf of defrauded investors. Cases of note include the Lernout & Hauspie, Bristol-Myers Squibb, Symbol Technologies and Philip Services class actions. In the Lernout & Hauspie case, Mr. Block and the case team negotiated a \$115 million agreement with the U.S. and Belgian affiliates of KPMG International. The recovery is among the largest settlements ever paid by an accounting firm in a securities action. Representing the Louisiana State Employees' Retirement System in the Bristol-Myers Squibb case, Mr. Block helped to recover \$300 million for the class. In addition, in the Philip Services Corp. case, Mr. Block and the case team negotiated a total \$79.5 million settlement. To date, that settlement includes the largest recovery ever obtained from a Canadian auditor.

Prior to joining Berman DeValerio, Mr. Block was associated with the New York law firm of Pomerantz Haudek Block & Grossman, representing shareholders in class actions brought under the federal securities laws and in state court actions involving claims of breaches of fiduciary duties by corporate directors.

**C. Oliver Burt, III**

A Partner in the firm's West Palm Beach office, C. Oliver Burt focuses his practice on securities and derivative class action litigation.

Mr. Burt co-founded Burt & Pucillo LLP, a firm which merged with partnerships in Boston and San Francisco in 2001 to form Berman DeValerio Pease Tabacco Burt & Pucillo LLP. For decades, Mr. Burt has worked to defend the interests of investors and fight against corporate fraud.

During the course of his extensive career, Mr. Burt has taken a number of cases to trial and appeal to obtain recoveries for defrauded investors. In the *White v. Heartland High-Yield Municipal Bond Fund et al.* case, for example, following three weeks of trial against the funds' auditors, PricewaterhouseCoopers, Mr. Burt and the case team obtained an \$8.25 million settlement – an aggregate settlement of \$23.25 million for the class. Mr. Burt was also trial co-counsel for plaintiffs in *Peil v. Speiser*, a securities class action tried to verdict in 1986, and argued the appeal. In its landmark opinion the Third Circuit Court of Appeals adopted the "fraud-on-the-market" presumption of reliance as the law of the Circuit. In addition, he was plaintiffs' lead trial counsel in *Kumpis v. Wetterau* and in *Upp v. Mellon*. *Upp v. Mellon* was tried to verdict in August 1992. He has argued appeals in class action cases in the Third, Eighth, Ninth and Eleventh Circuits and the Delaware Supreme Court.



Prior to co-founding his firm in West Palm Beach in January 1994, Mr. Burt was a Partner at a Philadelphia law firm and in private practice from 1977 to 1993. During that period of time, he tried many cases and was engaged in commercial litigation including antitrust, securities litigation, unfair competition, white-collar criminal cases and general business litigation. During this time, Mr. Burt's tried cases include, *Callan, et al. v. State Chemical Manufacturing Company*, *The Mader Group, Inc. v. Gekoski, et al.*, *Beta Consultants & Administrators v. Centennial Life Ins. Co.* and *U.S. v. Natale*, a criminal RICO case, among others.

From 1971 to 1977, Mr. Burt was an Assistant U.S. Attorney for the Eastern District of Pennsylvania. He was appointed Chief of the Civil Division of that office in 1973. As Chief of the Civil Division of the U.S. Attorney's Office, he managed and tried many matters including the Grand Jury investigation concerning the bankruptcy of the Penn Central Railroad, *United States v. Rosenbaum*. That case was tried for approximately six weeks in the Federal District Court in Philadelphia in the winter of 1977. Before being promoted to Chief, Mr. Burt was an Assistant U.S. Attorney for several years during which he prosecuted white-collar and other criminal cases involving securities fraud, mail fraud, wire fraud, "check-kiting," embezzlement of bank funds, interstate transportation of stolen motor vehicles, income tax evasion, bank robbery, drug trafficking, and other offenses.

In addition to his case work, Mr. Burt has been actively involved in a number of associations, authored materials and lectured on a variety of legal topics. From 1972 through 1985, he was Chairman of the Criminal Law Committee of the Philadelphia Bar Association Young Lawyers' Section Basic Legal Practice Course. He was an author and lecturer on various legal topics including co-authoring materials on Punitive Damages in the Class Action context and lecturing on that subject at the seminar "Litigating Punitive Damages" presented by the American Conference Institute in New York in May 1995.

Mr. Burt graduated from Swarthmore College with a B.A. in History and earned his J.D. from the University of Pennsylvania Law School.

Mr. Burt is a member of the Florida and Pennsylvania Bars, and is admitted to practice before the U.S. Supreme Court, the Third, Eighth, Ninth and Eleventh Circuit Court of Appeals and various Federal U.S District Courts. He is AV rated by Martindale-Hubbell.

### **Glen DeValerio**

Glen DeValerio was a co-founder in 1982 of Berman DeValerio & Pease, LLP, one of the law firms that formed Berman DeValerio in 2001. A 1969 graduate of the University of Rhode Island, he received his law degree in 1973 from the Catholic University Law School and served on the *Catholic University Law Review's* editorial board for two years. In 1973 and 1974, he worked as a law clerk to the Honorable June L. Green, U.S. District Court for the District of Columbia.

Mr. DeValerio is a primary point of contact for many of the firm's public fund clients, including the Massachusetts Pension Reserves Investment Management Board, the Louisiana State Employees' Retirement System, the Oklahoma Firefighters Pension & Retirement System, the Oklahoma Police Pension & Retirement System and the Pennsylvania State Employees' Retirement System.

Mr. DeValerio has prosecuted federal securities law violations, chiefly class and derivative actions, since the early 1970s – a total of 35 years of securities litigation experience. He devotes himself full-time to the firm's securities litigation practice.

A frequent lecturer on complex securities litigation issues, Mr. DeValerio speaks at continuing legal education seminars sponsored by groups such as PLI, ALI-ABA and the Boston Bar Association. He served as the President of the National Association of Securities and Commercial Law Attorneys (NASCAT) from 1996 through 1998. He is AV rated by Martindale-Hubbell.

Mr. DeValerio is a member in good standing of the state bar of Massachusetts. He is also licensed to practice in the U.S. Districts Courts for the District of Columbia, Massachusetts, Delaware, New Hampshire and Connecticut. He has also been admitted to practice in the First and Fourth Circuits of the U.S. Courts of Appeals.

#### **Manuel J. Dominguez**

Manuel J. Dominguez graduated with honors from the Florida State University Law School in 1995 and was a member of the *Transnational Journal of Law and Policy*. He received his undergraduate degree from Florida International University in 1991. Mr. Dominguez is admitted to practice law in the State of Florida as well as the U.S. District Courts for the Northern, Middle and Southern Districts of Florida.

Mr. Dominguez served as an assistant attorney general with the State of Florida from 1995 to 1997 in the Department of Economic Crimes. He participated in the prosecution and investigation of corporations and business entities for violations of Florida's RICO statute, Florida's antitrust statute and Florida's Unfair and Deceptive Trade Practices Act. In private practice from 1997 through 2000, Mr. Dominguez litigated and tried cases involving Florida's Unfair and Deceptive Trade Practices Act, the Florida Consumer Collection Practices Act, Federal Debt Collection Practices Act and Truth in Lending. Mr. Dominguez was named a partner at Berman DeValerio in 2006.

#### **Kathleen M. Donovan-Maher**

Kathleen M. Donovan-Maher focuses her work on Berman DeValerio's securities practice. Ms. Donovan-Maher was a principal attorney in Fannie Mae. She also served as discovery captain in In re: NASDAQ Market-Makers Antitrust Litig., 94cv3996 (S.D.N.Y.) and was a member of the trial team in In re: ICN/Viratek Sec. Litig., 87cv4296 (S.D.N.Y.) which settled for \$14.5 million when the jury deadlocked after a 1996 trial.

Other cases in which Ms. Donovan-Maher has played a chief role include, but are not limited to, Enterasys Networks and SkillSoft. Both cases settled for significant financial recoveries on behalf of public retirement systems, the Los Angeles County Employees Retirement Association and the Teachers' Retirement System of Louisiana, respectively. In addition to a monetary award, the Enterasys Networks settlement also included corporate governance improvements, requiring the company to back a proposal to eliminate its staggered board of directors, allow certain large shareholders to propose candidates to the board and expand the company's annual proxy disclosures.

Ms. Donovan-Maher graduated from Suffolk University in 1988, receiving a B.S. degree in Business Administration *magna cum laude* and earning an award for maintaining the highest grade point average among students with concentrations in Finance. She graduated from Suffolk University Law School three years later after serving for two years on the *Transnational Law Review*.

Ms. Donovan-Maher is a member in good standing of the state bar of Massachusetts. She is also admitted to practice law in the U.S. District Court for the Districts of Massachusetts, New Hampshire, Eastern District of Tennessee, Northern District of California and the District of Columbia as well as the U.S. Court of Appeals for the First Circuit.

A frequent author on continuing legal education issues for such groups as ALI-ABA and PLI, Ms. Donovan-Maher is a member of Phi Delta Phi, Delta Mu Delta National Honor Society in Business Administration and Omicron Delta Epsilon International Honor Society of Economics.

### **Patrick T. Egan**

A partner in Boston, Patrick T. Egan focuses his practice on securities litigation.

Mr. Egan has worked on a number of important cases, including Lernout & Hauspie and the related case, Quaak v. Dexia, S.A. Those cases stem from a massive accounting fraud scheme at Lernout & Hauspie Speech Products, N.V., a bankrupt Belgian software company. As co-lead counsel, the firm recovered more than \$180 million on behalf of former Lernout & Hauspie shareholders.

Prior to joining the firm in 1999 and being named partner in 2006, Mr. Egan worked at the U.S. Department of Labor, where he served as an attorney advisor for the Office of Administrative Law Judges.

Mr. Egan received a B.A. in Political Science *cum laude* from Providence College in 1993. In 1997, he graduated *cum laude* from Suffolk University Law School. While at Suffolk, Mr. Egan served on the editorial board of the *Suffolk University Law Review* and authored a note entitled, "Virtual Community Standards: Should Obscenity Law Recognize the Contemporary Community Standard of Cyberspace" 30 *Suffolk University L. Rev.* 117 (1996).

Mr. Egan is admitted to practice law in the Commonwealth of Massachusetts, Connecticut and New York, as well as the U.S. District Court of Massachusetts. He is also admitted to practice before the U.S. Courts of Appeals in the First and Fourth Circuits.

### **Christopher T. Heffelfinger**

Christopher T. Heffelfinger is a 1984 graduate of the University of San Francisco School of Law, where he was a member of the law review. He graduated from Claremont Men's College in 1977 with a B.A. in Economics. He has an AV rating from Martindale-Hubbell. He specializes in corporate, securities, derivative and antitrust litigation, and has acted as a principal attorney in a number of such cases. Prior to joining the firm, he was associated with the San Francisco firm of Gold & Bennett from 1990 to 1994, where he practiced securities and bankruptcy litigation. Before that, he practiced securities litigation and bankruptcy law for five years with a small firm in Marin County with an emphasis on Chapter 11 reorganizations, representing both debtors and creditors. He has litigated securities cases involving real estate limited partnerships, the mortgage banking and insurance industries and companies engaged in the high-tech arena where the allegations involved both non-disclosed product problems and accounting fraud issues.

Mr. Heffelfinger has lectured on discovery as a panelist in the Federal Court Northern District of California Practice Program. In addition, he served as a Captain (infantry) in the U.S. Marine Corps from 1990 to 1991, when he was recalled to active duty in support of Operations Desert Shield/Storm.

### **Nicole Lavallee**

A partner in San Francisco, Nicole Lavallee focuses her practice on securities and derivative litigation and is an integral member of the firm's case evaluation and monitoring team for public pension and union fund clients. The team investigates potential securities law violations to determine whether a case meets the firm's exacting standards.

Ms. Lavallee is currently prosecuting a number of actions on behalf of defrauded investors. For example, she is a lead attorney representing the Louisiana Municipal Police Employees' Retirement System, one of the co-lead plaintiffs, in the KLA-Tencor Corp. class action. Plaintiffs in the case allege that the company backdated stock option grants, issued false and misleading statements regarding grants to key executives and directors and inflated the company's financial results by understating expenses associated with the backdated options. KLA recently restated several years of financial results by over \$375 million.

Ms. Lavallee has been responsible for the prosecution of a number of the firm's high-profile securities fraud cases. She recently represented the pension funds of Colorado, Minnesota and Utah in a successful opt-out action against McKesson/HBOC brought in San Francisco Superior Court. Though the details of the settlement are confidential, these clients obtained results that far exceed their pro-rata share of the corresponding class

action. She was also the partner responsible for the day-to-day prosecution of a derivative insider trading action against Lawrence J. Ellison, the Chief Executive Officer of Oracle Corporation, which resulted in changes to the company's insider trading policies. As part of the 2005 settlement negotiated by plaintiffs' counsel, Mr. Ellison agreed to make \$100 million in charitable donations in Oracle's name and pay plaintiffs' attorneys' fees and expenses. At the hearing on summary judgment, the Court praised Ms. Lavallee's work, stating: "Ms. Lavallee, I just wanted to tell you I thought your brief was excellent."

Ms. Lavallee is a 1989 graduate of the French Civil Law School at Université de Montréal in Canada and obtained her Common Law degree from Osgoode Hall Law School in Toronto.

Ms. Lavallee is admitted to practice law in the State of California. She is AV rated by Martindale-Hubbell.

#### **Peter A. Pease**

Peter A. Pease has been litigating cases under the federal antitrust and securities laws and state unfair trade practices claims for nearly 30 years. He received a B.A. from the University of Denver in 1972 and a J.D. from Suffolk University Law School in 1976. He is admitted to practice in Massachusetts, the U.S. District Courts of Massachusetts and the Eastern District of Michigan, and the U.S. Courts of Appeals for the First and Third Circuits. His effective and successful advocacy has elicited favorable judicial comment in courts throughout the nation.

For over 25 years, Mr. Pease has lectured at various bar association CLE programs, trade association annual meetings and the Sloan School of Management at M.I.T., and has written and appeared in the print and broadcast media. He served as an editor of the American Bar Association's Franchise Law Journal, 1986 - 1989.

Mr. Pease is chair of the Board of Directors of Bay Cove Human Services, Inc., having served as a director since 2000. Bay Cove serves more than 12,000 individuals and their families each year at more than 80 different program sites, providing treatment for mental illness, developmental disabilities, addiction disorders, homelessness, early intervention learning programs and services for seniors. He was formerly a director of the Massachusetts Alliance for the Mentally Ill. He was elected to the Town of Upton Planning Board 1980-86, and served as chair 1981-1985. He served six years as a deacon of the First Parish Church in Lincoln.

#### **Michael J. Pucillo**

Michael J. Pucillo is the managing partner of the firm's West Palm Beach office. A member of the Florida Bar since 1978, he is admitted to practice before the U.S. Court of Appeals for the Fifth and Eleventh Circuits, and the U.S. District Courts for the Southern and Middle Districts of Florida and the District of Arizona.



He has been active in numerous class actions and shareholder derivative actions throughout the United States since 1989. He acted as sole lead counsel in In re: UCAR International, Inc. Sec. Litig., 98cv0600-JBA (D. Conn.), an action in which the Florida State Board of Administration was the lead plaintiff. That action settled in 2000 for a \$40 million cash payment and the right to appoint a new member to UCAR's Board of Directors, one of the first times such significant corporate governance relief was achieved as part of a securities class action.

A graduate of Williams College in 1975 and Georgetown University Law School in 1978, Mr. Pucillo worked as law clerk to two federal judges before serving as an enforcement attorney with the U.S. Securities and Exchange Commission in Washington D.C. Mr. Pucillo has lectured frequently on class actions and litigation. In 1994, he became a member of the faculty of the College of Advanced Judicial Studies ("AJS"), where he taught "Managing the Complex Civil Case" to Florida circuit court judges in 1994 and in 1996. He taught again at the 2002 AJS. A member of the Academy of Florida Trial Lawyers, he has lectured for the Academy on class actions and on recent developments in commercial and business tort litigation. He served as president of the Gold Coast Chapter of the Federal Bar Association during 1989-1990, and served from 1994 to 1997 as chairman of the Palm Beach County Bar Association Federal Court Practice Committee. He also appeared on the PBS Nightly Business Report on issues relating to investor fraud.

#### **Todd A. Seaver**

Todd A. Seaver graduated *magna cum laude* from Boston University in 1994 with a B.A. in International Relations. He earned an M.Sc. from the London School of Economics in 1995 and graduated *cum laude* from the American University Washington College of Law in 1999. While in law school, Mr. Seaver served as a law clerk at the Federal Trade Commission's Bureau of Competition and as a judicial extern for the Honorable Ricardo M. Urbina of the U.S. District Court for the District of Columbia.

Mr. Seaver was previously associated with the law firm Devine, Millimet & Branch, P.A., where he practiced commercial litigation. He was also an adjunct Professor of Law at the New England School of Law in 2003.

Mr. Seaver became associated with the firm in 2000 and was named partner in 2007. He focuses his work on antitrust litigation and has worked on a number of the firm's high-profile cases including Cardizem CD, a generic drug competition case that settled for \$80 million with Aventis Pharmaceuticals and Andrx Corporation.

Mr. Seaver is currently working on several antitrust cases, including Canadian Car, an antitrust action alleging that major auto manufacturers unlawfully conspired to stop the export of cheaper Canadian new vehicles into the United States for use or resale. The case has partially settled with Toyota Motor Sales U.S.A. for \$35 million. The settlement requires court approval.

Mr. Seaver was admitted to the New Hampshire Bar in 1999 and the Massachusetts Bar in 2000. He is also a member of the American Bar Association's Antitrust Section.

**Leslie R. Stern**

A partner in Boston, Leslie R. Stern heads the case evaluation and monitoring team for institutional clients. The team investigates potential securities law violations to determine whether a case meets the firm's exacting standards.

In addition to leading the case development team, Ms. Stern also works on ongoing litigation, including the Carlson v. Xerox Corp. securities class action, in which Berman DeValerio is co-lead counsel representing the Louisiana State Employees' Retirement System.

Prior to joining Berman DeValerio in 1998 and being named partner in 2003, Ms. Stern practiced general civil litigation. She earned a B.S. degree in Finance from American University in 1991 and graduated *cum laude* from Suffolk University Law School in 1995. While at Suffolk, Ms. Stern served on the *Suffolk University Law Review's* editorial board and authored three publications.

Ms. Stern has been admitted to practice law in the Commonwealth of Massachusetts and the U.S. District Courts of Massachusetts and Northern California. She has also been admitted to practice in the First and Fourth Circuits of the U.S. Court of Appeals.

**Joseph J. Tabacco, Jr.**

The managing partner of Berman DeValerio's San Francisco office, Joseph J. Tabacco, Jr. actively litigates antitrust, securities fraud, commercial high tech and intellectual property matters.

Mr. Tabacco is a primary point of contact for many of Berman DeValerio's institutional clients, including the California State Teachers' Retirement System and the California Public Employees' Retirement System.

Since entering private practice in the early 1980s, Mr. Tabacco has served as trial or lead counsel in numerous antitrust and securities cases and has been involved in all aspects of state and federal litigation.

Prior to 1981, Mr. Tabacco served as senior trial attorney for the U.S. Department of Justice, Antitrust Division and in both the Central District of California and the Southern District of New York. In that capacity, he had major responsibility for several criminal and civil matters, including the antitrust trial of U.S. v. IBM. He is a former teaching fellow of the Attorney General's Advocacy Institute in Washington, D.C., and has served on the faculty of ALI-ABA on programs about U.S.-Canadian business litigation and trial of complex securities cases.

In addition to his role providing legal counsel to public pension and union fund clients, Mr. Tabacco is an independent director of Overstock.com and serves on its Audit and Compensation Committees. He also frequently lectures and authors articles on securities

and antitrust law issues and is a member of the Advisory Board of the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law.

Recently recognized and featured by the *Daily Journal*, Mr. Tabacco is as one of California's top 30 securities litigators, a group chosen from both the plaintiff and defense bars. Additionally, for three consecutive years, Mr. Tabacco has been named a Super Lawyer by *Northern California Super Lawyer Magazine*, which features the top 5% of attorneys in the region. He is AV rated by Martindale-Hubbell.

Mr. Tabacco has been admitted to practice law in the states of California, Massachusetts, New York and the District of Columbia.

### **Wendy H. Zoberman**

Wendy H. Zoberman, a partner in the firm's West Palm Beach office, focuses her practice on securities litigation. Since 1990, Ms. Zoberman has prosecuted numerous securities class actions and derivative actions throughout Florida and in other jurisdictions.

Ms. Zoberman regularly represents institutional investors. Examples include the Municipal Police Employees' Retirement System of Louisiana against Reliant Energy, Inc. and the Florida State Board of Administration in shareholder actions involving Sensormatic Electronics Corporation and Sykes Enterprises, Inc. The latter two litigations resulted in what were, at that time, among the largest securities class action settlements in Florida - \$53.3 million and \$30 million, respectively.

Additionally, Ms. Zoberman participated in the UCAR International, Inc. securities case, one of the first times significant corporate governance relief was achieved as part of a securities class action. The UCAR case, where the Florida State Board of Administration was lead plaintiff, settled for a \$40 million cash payment and the right to appoint a new member to UCAR's Board of Directors.

Ms. Zoberman is a 1981 graduate of Wellesley College, where she was a Durant Scholar, and was elected to the Phi Beta Kappa Society. She received her law degree from Columbia University in 1984. At Columbia she served as an Articles Editor of the *Columbia University-Volunteer Lawyers for the Arts Journal of Art and the Law*, and is a co-author of "An Introduction to the New York Artists' Authorship Rights Act," appearing at Vol. 8, No. 3 *Columbia - VLA Journal of Art and the Law* 369.

Ms. Zoberman is admitted to practice before the U.S. District Court for the Middle and Southern Districts of Florida, the Southern District of New York as well as all Florida State Courts.



## ASSOCIATES

### **Julie J. Bai**

An associate in San Francisco, Julie J. Bai is a member of the firm's new case evaluation and monitoring team for institutional clients. The team investigates potential securities law violations to determine whether a case meets the firm's exacting standards.

Ms. Bai currently works on numerous antitrust and securities litigation cases, including Reformulated Gasoline Antitrust and Patent Litigation, Marvell Technology Group and International Rectifier.

Prior to joining Berman DeValerio in 2004, Ms. Bai, a Certified Public Accountant, worked as a business assurance associate and senior tax accountant at two major public accounting firms. She earned a B.S. in Economics and a minor in Japanese from the University of Pennsylvania, Wharton School of Business in 1995. In 2003, she received her J.D. from the University of California, Davis, School of Law. While in law school, Ms. Bai worked on family law matters with low-income victims of domestic violence at the Family Protection Clinic in Woodland, California.

Ms. Bai is admitted to practice law in California and is a member of the American Bar Association and San Francisco Bar Association.

### **Kyle G. DeValerio**

An associate in West Palm Beach, Kyle G. DeValerio is a member of the new case evaluation and monitoring team for institutional clients. The team investigates potential securities law violations to determine whether a case meets the firm's exacting standards.

In addition to serving as a member of the new case team, Mr. DeValerio works on ongoing securities litigation, including Carlson v. Xerox Corp., in which Berman DeValerio is co-lead counsel representing the Louisiana State Employees' Retirement System. Plaintiffs in the case allege that Xerox and several of its top officers reported false financial results and failed to adhere to standard accounting practices.

Prior to joining the firm as an associate in 2004, Mr. DeValerio worked as a legal intern in the Civil Division of the U.S. Attorney's Office in Boston.

Mr. DeValerio graduated from Colby College in 1999 with a B.A. in Government. While in college, he spent a year studying European politics and the English legal System at the London School of Economics and Political Science. He received his J.D. in 2004 from the Suffolk University School of Law. During law school, Mr. DeValerio participated in the Irving R. Kaufman Memorial Securities Law Moot Court Competition.

Mr. DeValerio is admitted to practice law in the Commonwealth of Massachusetts, the state of Florida and the U.S. District Court of Massachusetts. He is also a member of the Palm Beach County Bar Association.

### **Jay W. Eng**

An associate in the West Palm Beach office, Jay W. Eng is a member of the firm's case evaluation and monitoring team for institutional clients. He regularly coordinates investigations to determine whether a potential case meets the firm's exacting standards.

In addition to his work investigating possible securities law violations, Mr. Eng recently worked to help secure settlements totaling \$285 million in the El Paso Corp. securities litigation. He also served on the team prosecuting the Reliant Sec. Litig., which achieved a settlement of \$75 million. In 2005, Mr. Eng assisted in one of the few securities class action jury trials against the auditor of the fund manager in White v. Heartland High-Yield Municipal Bond Fund.

Prior to joining the firm in 2002, Mr. Eng worked as a commercial litigation associate at Carlton Fields, P.A. He also served as a judicial law clerk for Magistrate Judge Ann E. Vitunac, of the U.S. District Court of Southern Florida, and as a trial court law clerk for the 15th Judicial Circuit Court in Palm Beach County, Florida.

Mr. Eng graduated from Florida State University in 1994 with a B.S. in Economics. In 1998, he graduated from Tulane Law School with a J.D. and certificate of specialization in maritime law. While at Tulane, he was awarded the book award for his top grade in Contracts II - the Uniform Commercial Code. He also served as a Notes and Comments Editor to the *Tulane Maritime Law Journal* and authored a note entitled, "The 'Something More' Requirement under Section 5(b) of the Longshore Act: Singleton v. Guangzhou Ocean Shipping Co.," 21 *Tul. M. L.J.* 205 (1996).

A member of the Federal Bar Association and the Palm Beach County Bar Association, Mr. Eng has also been admitted to practice in the state of Florida, as well as the U.S. District Courts for the Southern, Middle and Northern Districts of Florida and the Eastern District of Wisconsin. He has also been admitted to practice in the Eleventh U.S. Circuit Court of Appeals.

### **Audley Fuller**

Audley Fuller received his law degree from Boston College Law School in 1985 and a double degree in English and Mass Communications *cum laude* from the University of Hartford in 1981. Mr. Fuller was admitted to practice in Massachusetts in 1985, the U.S. District Court for the District of Massachusetts in 1987 and the U.S. Supreme Court in 2000.

Mr. Fuller began his legal career as an assistant district attorney for Middlesex County, Massachusetts. Later, he worked as an associate with Fitzhugh & Associates, a Boston insurance defense firm.

**Lesley Ann Hale**

An associate in the San Francisco office, Lesley Ann Hale focuses her practice on securities and antitrust litigation and is a member of the firm's case evaluation and monitoring team for institutional clients. She regularly coordinates stock options backdating investigations.

Ms. Hale is currently working on numerous cases, including KLA-Tencor Corp. Representing Louisiana Municipal Police Employees' Retirement System, Berman DeValerio is liaison counsel and an executive committee member in the KLA-Tencor Corp. case. Plaintiffs allege that the corporation backdated stock option grants to the individual defendants to provide them with a more profitable exercise price. Ms. Hale supports all aspects of the case.

In the past, she has also worked on cases such as JDS Uniphase Corp., DRAM Antitrust, Flash Memory Antitrust and Abbott Laboratories Norvir Antitrust. Notably, the DRAM case, which prosecutes the world's largest manufacturers of Dynamic Random Access Memory (DRAM) chips, settled for a total of nearly \$326 million. Ms. Hale assisted in depositions and helped to prepare expert witnesses.

Prior to joining Berman DeValerio in 2005, Ms. Hale served as a Senior Motions Attorney for the Ninth Circuit U.S. Court of Appeals in San Francisco. While at the court, she worked on a "discriminatory pay and promotion policy" class action lawsuit in Dukes v. Walmart and a preliminary injunction appeal challenging the government's "stop-loss" policy in John Doe v. Rumsfeld. Ms. Hale has also served as a Special Assistant U.S. Attorney for the U.S. Attorney's Office in the District of Columbia and as a Trial Attorney in the Criminal Enforcement Section of the U.S. Department of Justice Tax Division.

Ms. Hale graduated *cum laude* with a B.A. in Government from Harvard College in 1993, where she was named to the Dean's List (1991-1992) and received the Harvard College Scholarship and the Elizabeth C. Agassiz Merit Award, both for academic achievement. In 1998, Ms. Hale received her J.D. from Georgetown University Law Center. While studying at Georgetown, she worked as an assistant to a partner at Russell & Russell P.C., drafting pleadings and conducting legal research, and represented domestic violence victims in the District of Columbia Superior Court.

Ms. Hale is admitted to practice law in the state of California as well as the U.S. District Courts of Northern and Central California. She is also an active member of the San Francisco Bar Association.

**James C. Magid**

An associate in the firm's San Francisco office, James C. Magid focuses his practice on antitrust and securities litigation.

Mr. Magid currently works on numerous securities and antitrust cases, including, GenesisIntermedia, Inc., NVIDIA and Abbott Laboratories Norvir Antitrust. The class action against Abbott Laboratories accuses the pharmaceutical giant of monopolistic practices and a drug price-fixing scheme to overcharge thousands of people living with HIV.

Prior to joining the firm, Mr. Magid worked as a staff attorney for the Ninth Circuit U.S. Court of Appeals. He earned a B.A., with honors, from the University of California at Berkeley in 2000, majoring in Political Economy of Industrial Societies. Mr. Magid received his J.D. in 2004 from the University of California, Hastings College of the Law. While at Hastings, he earned a number of honors, including the William J. Riegger Memorial Student Prize for outstanding work in international law and the Class of 1969 Scholarship, for demonstration of leadership in community service. He also participated in the spring 2003 Jessup International Law Moot Court Competition and was Notes Editor for the *Hastings' Constitution Law Quarterly*, from 2003-2004.

Mr. Magid is admitted to practice law in the state of California.

**Richard F. Malloy, Jr.**

An associate in the Boston office, Richard F. Malloy, Jr. focuses his practice on securities litigation.

Mr. Malloy currently works on the Xcelera.com litigation, a class action alleging that the company and certain of its officers issued materially false and misleading statements causing Xcelera's common stock to be artificially inflated throughout the class period. Mr. Malloy also worked on the Philip Services securities litigation team, a class action which recently settled for \$79.75 million.

Prior to joining Berman DeValerio in 2005, Mr. Malloy worked as a consultant and project manager for Tufts and Harvard Universities, where he coordinated the LCME reaccreditation of both premier medical schools, and served on numerous planning committees and task forces. He has also worked as an advocate at the New England Center for Homeless Veterans and clerked at Adelson, Loria & Weisman, PC, formerly known as Adelson, Goden & Loria, PC, where he practiced in the areas of bankruptcy and real estate law.

Mr. Malloy graduated from the University of North Texas in 1991 with a B.A. in Philosophy and Religion and a minor in Music Performance. He earned a J.D. from Suffolk University Law School in 1994, where he received the Award for Outstanding Oral Advocacy in the first-year mock trial competition.

Mr. Malloy is admitted to practice law in the Commonwealth of Massachusetts.

**Nathaniel L. Orenstein**

An associate in the firm's Boston office, Nathaniel L. Orenstein focuses his practice on securities litigation.

Prior to joining Berman DeValerio, Mr. Orenstein was a staff attorney for the Office of the Secretary of the Commonwealth of Massachusetts, Securities Division. While there, he monitored companies, investigated matters and pursued enforcement actions to detect and prevent fraud at hedge-funds and related companies. Mr. Orenstein was also the lead attorney on many investigations and actions against broker-dealers, investment advisors and others.

In addition to his work for the Commonwealth, Mr. Orenstein served as a member of the mutual fund and insurance brokerage investigation teams for the Office of the New York State Attorney General's Investment Protection Bureau. He assisted with all aspects of the Bureau's investigation work including, strategic planning, discovery and settlement negotiation.

Prior to obtaining his J.D. from the New York University School of Law in 2005, Mr. Orenstein was a policy analyst, and subsequently promoted to associate director, for the Center for Insurance Research, a consumer advocacy organization. In these roles he participated in complex litigation matters. He also testified in regulatory and legislative proceedings on behalf of policyholders concerning market conduct and insurance rate setting.

In addition to Mr. Orenstein's legal practice at Berman DeValerio, he is on the Board of Directors for the Center for Insurance Research and Washington Square Minyan.

Mr. Orenstein is admitted to practice law in the Commonwealth of Massachusetts.

**Matthew D. Pearson**

An associate in the San Francisco office, Matthew D. Pearson focuses his practice on antitrust litigation.

Mr. Pearson is currently working on several antitrust cases including the New Motor Vehicles Canadian Export Antitrust Litigation, an antitrust action alleging that major auto manufacturers unlawfully conspired to stop the export of cheaper Canadian new vehicles into the United States for use or resale. The case has partially settled with Toyota Motor Sales, U.S.A., Inc. for \$35 million. The settlement requires court approval.

Prior to joining Berman DeValerio in 2005, Mr. Pearson earned a B.A. in political science in 1999 from the University of California, Los Angeles, and a J.D. in 2004 from the University of California, Davis, School of Law. While in law school, Mr. Pearson



completed the King Hall Public Service Law Program and worked as a legal intern assigned to a felony trial team at the Sacramento County District Attorney's Office.

Mr. Pearson has been admitted to practice law in the State of California as well as the U.S. District Courts for the Northern, Central and Southern Districts of California.

**Abigail R. Romeo**

An associate in the firm's Boston office, Abigail R. Romeo focuses her practice on securities litigation.

Ms. Romeo currently works on the Carlson v. Xerox Corp. litigation. Representing the Louisiana State Employees' Retirement System, Berman DeValerio is co-lead counsel in the case, which alleges that Xerox, several of the company's top officers and its auditor, KPMG LLP, engaged in a scheme to report false and misleading financial results during the four-year class period. Ms. Romeo helped manage the discovery process of the case. She also conducts case investigations to determine whether a potential case meets the firm's exacting standards.

Prior to joining Berman DeValerio in 2005, Ms. Romeo worked as a litigation associate with Edwards Angell Palmer & Dodge, LLP in Boston and as a legal intern with the U.S. Department of Justice, Executive Office for Immigration Review.

Ms. Romeo earned a B.A. in Government from Skidmore College in 2000, graduating *summa cum laude*. In 2003, she earned a J.D. *magna cum laude* from Pepperdine University School of Law, where she received the Witkin Award for Academic Excellence in Contracts I, Torts II and Evidence. Ms. Romeo was also editor of the *Pepperdine Law Review*.

She is admitted to practice law in the Commonwealth of Massachusetts and the U.S. District Courts of Massachusetts and Connecticut. She is also a member of the American Bar Association.

**Autumn Smith**

An associate in the Boston office, Autumn Smith focuses her practice on securities litigation.

Prior to joining the firm in 2006, Ms. Smith served as a law clerk to Chief Justice Frank J. Williams, Rhode Island Supreme Court, before joining Rubin and Rudman, LLP as a litigation associate in 2004. There, she worked on a range of complex commercial litigation cases, including securities and environmental matters.

Ms. Smith graduated *cum laude* in 2000 from Wellesley College with a B.A. in Political Science and Peace and Justice Studies. She earned honors in Political Science and the Eleanor Scheff Kaplan Fund grant in Jewish Studies. She received her J.D. in 2003 from Boston University School of Law. During law school, Ms. Smith served as a research

assistant, participated in the Stone Moot Court and the J. Braxton Craven Constitutional Law Moot Court and volunteered for the Mental Health Legal Advisors Committee.

Ms. Smith is admitted to the Massachusetts and New York Bars and is an active member of the Younger Lawyers Division of the Federal Bar Association.

**Kristen D. Tremble**

An associate in the firm's Boston office, Kristen D. Tremble focuses her practice on securities litigation.

Prior to joining Berman DeValerio, Ms. Tremble was an associate at Jorden Burt LLP where she was a member of the firm's appellate, class action and national trial practice teams.

Ms. Tremble graduated *cum laude* from American University in 1999, earning a B.A. in education. She earned her J.D. from Catholic University of America, Columbus School of Law in 2002, also with *cum laude* distinction.

While in law school, Ms. Tremble was the associate editor of the *Catholic University Law Review* and a member of the Securities Law Students Association. She was also an intern in the U.S. Securities and Exchange Commission, Division of Enforcement, Observer Program.

Ms. Tremble is admitted to practice law in the State of Maryland and the District of Columbia.

**Bryan A. Wood**

An associate in Boston, Bryan A. Wood focuses his practice on securities litigation and is a member of the firm's case evaluation and monitoring team for institutional clients.

In addition to his work investigating possible securities law violations, Mr. Wood currently works on numerous cases, including the ongoing Carlson v. Xerox Corp. litigation. Representing the Louisiana State Employees' Retirement System, Berman DeValerio is co-lead counsel in the case, which alleges that Xerox, several of the Company's top officers and its auditor, KPMG LLP, engaged in a scheme to report false and misleading financial results during the four-year class period. Mr. Wood is responsible for managing and supervising the firm's discovery process in the Xerox case. He also managed discovery and participated in settlement proceedings for the ICG Communications securities class action, which recently settled for \$18 million.

Prior to joining Berman DeValerio in 2002, Mr. Wood was a litigation associate at both Montgomery, McCracken, Walker & Rhoads, LLP in Philadelphia and Schnader Harrison Segal & Lewis in Boston. As an associate at those firms, he represented corporations and directors in shareholder and other class action lawsuits. He also



represented businesses and municipalities in general contract and employment discrimination cases.

Mr. Wood graduated *cum laude* from the University of Massachusetts in 1991 with a B.A. in Sociology. In 1995, he earned an M.S. *summa cum laude* in Public Policy from the Eagleton Institute of Politics at Rutgers University and graduated *cum laude* from the Temple University School of Law in 1998. While in law school, he was the Managing Editor of the *Temple Law Review* and a board member of the Temple Law Moot Court Honor Society. In addition, Mr. Wood completed a one-year internship for the Honorable Edward R. Becker, then Chief Judge for the U.S. Court of Appeals for the Third Circuit.

In 2007, *Massachusetts Super Lawyers* magazine named him a “Rising Star” in recognition of his expertise and work in securities litigation.

Mr. Wood is admitted to practice law in the Commonwealths of Massachusetts and Pennsylvania (voluntarily inactive as of 2005). He is also admitted to the U.S. District Courts for the Districts of Massachusetts, Colorado and Eastern Pennsylvania, as well as the U.S. Court of Appeals for the First Circuit. He is also a member of the Boston Bar Association and the American Bar Association.

## SPECIAL COUNSEL

### **Kevin Shelley**

Kevin Shelley, special counsel to the firm, is a former California Secretary of State and State Assembly leader recognized as an advocate for working people, consumers and investors.

Mr. Shelley’s political career began in 1990, when he won a seat on the San Francisco Board of Supervisors. Elected to the California State Assembly in 1996, he championed the rights of workers and fought to protect civil liberties. Among his accomplishments, he improved staff-to-patient ratios at nursing homes, drafted new corporate accountability requirements and created a restitution fund for victims of corporate fraud.

Mr. Shelley, who spent five of his six years in the State Assembly as majority leader, won election for Secretary of State in November 2002. As the state’s chief election officer, he is credited with improving voter participation and restoring public confidence.

Since 2005, Mr. Shelley has been representing consumers and plaintiffs in civil litigation. He began working with Berman DeValerio in 2006. He earned a B.A. in political science from the University of California-Davis and a law degree from the University of California Hastings College of Law in 1983. A member of the California Bar, he is the son of Jack Shelley, a former Mayor of San Francisco, U.S. congressman and California state senator.

## OF COUNSEL

### **Anne F. O'Berry**

Since joining the firm in 2000, Anne O'Berry (formerly Anne Jacobs) has helped litigate over 50 cases, including several resulting in substantial recoveries for institutional investors, such as El Paso, Reliant, Sykes and Worldcom. In addition to her securities litigation work, she has assisted in several antitrust and consumer protection cases as well.

Earlier in her career, Ms. O'Berry was a commercial litigation associate with the New York firm of Debevoise & Plimpton and served as Secretary of the Civil Rights Committee of the Association of the Bar of the City of New York. She also worked as a staff attorney for a federally funded agency representing death row inmates in complex federal and state post-conviction litigation, as co-director of the Battered Women's Clemency Project in Tallahassee, Florida, as a staff attorney at the Fourth District Court of Appeal in West Palm Beach, Florida, and as an adjunct professor at St. Thomas University Law School, where she taught Race and the American Legal Process, and Interviewing, Counseling and Negotiating.

Ms. O'Berry obtained her B.A. in Sociology and Political Science from the University of Pennsylvania in 1983, graduating *summa cum laude* and Phi Beta Kappa. She earned her J.D. from New York University Law School in 1986, where she was an Articles Editor on the Annual Survey of American Law and authored the article, "Prisoners' Rights: Judicial Deference to Prison Administrators," 1985 *Annual Survey of American Law* 325. Additionally, she served as Student Director of the Women in Prison Project at Rikers Island, participated in the Civil Rights clinical program at NYU, and interned as a law clerk for the Honorable Abraham D. Sofaer of the U.S. District Court for the Southern District of New York.

Following law school, Ms. O'Berry served as a Law Clerk to the Honorable Dickinson R. Debevoise of the U.S. District Court for the District of New Jersey, and then as a research and teaching associate to the Honorable A. Leon Higginbotham, Jr. of the U.S. Court of Appeals for the Third Circuit, with whom she co-authored, "'The Law Only As An Enemy:' The Legitimization of Racial Powerlessness Through the Colonial and Antebellum Criminal Laws of Virginia," *North Carolina Law Review*, Vol. 70, No. 4 (April 1992).

Ms. O'Berry is admitted to the New York and Florida Bars, the U.S. District Courts for the Southern and Eastern Districts of New York and Southern District of Florida, and the U.S. Supreme Court. She is a member of the Appellate Practice Section of the Florida Bar, the Palm Beach County Bar Association, and the U.S. Green Building Council's South Florida Chapter.

## OTHER KEY PERSONNEL

### **Christopher A. Szechenyi, Director of Investigations**

Christopher A. Szechenyi is the firm's director of investigations. During the past five years at the firm, Mr. Szechenyi and his team of investigators have worked on many cases that have resulted in significant client recoveries, including suits against Symbol Technologies, Bristol-Myers and Toyota Motor Sales.

Prior to joining the firm, he worked for 60 Minutes as a Paris-based producer, investigating stories all over the world for correspondent Mike Wallace. He also has conducted investigations for Dateline NBC, A&E, and the Discovery Channel and has contributed stories to *The New Yorker* magazine and *The Boston Globe*. During his 25 years in journalism, he received more than two dozen journalism awards, including two regional Emmys and national recognition from Investigative Reporters and Editors. Among other things, he has exposed a pattern of deadly safety violations on a giant construction project, uncovered design flaws in defibrillators and, after 9/11, interviewed Osama Bin Laden's half-brother. He earned a B.A. in journalism from Lehigh University in 1975. Mr. Szechenyi is an adjunct professor of journalism at Emerson College in Boston.

### **Jeannine M. Scarsciotti, Senior Paralegal**

Jeannine M. Scarsciotti is Berman DeValerio's senior paralegal and, as such, oversees and coordinates all paralegal projects as well as the portfolio monitoring and loss calculations for the firm's institutional clients. She joined the firm as a paralegal in 1995. Ms. Scarsciotti attended Bentley College, graduating, summa cum laude, in 1995. She earned a B.S. in Professional Studies and an ABA-Accredited Certificate of Paralegal Studies.

### **Robert I. Francis, Forensic Accountant**

During the past three years at the firm, Robert I. Francis has worked on many cases that have resulted in significant client recoveries, including suits against McKesson, Reliant Energy, Skillsoft plc, Bristol-Myers and El Paso.

Prior to joining the firm, Mr. Francis worked as a senior audit manager specializing in financial services at KPMG Peat Marwick and PricewaterhouseCoopers LLP, and served as vice president for Global Accounting Policy/External Reporting for State Street Corporation. Mr. Francis also has experience as an independent consultant, providing accounting support services related to compliance requirements of the Sarbanes-Oxley Act of 2002.

Mr. Francis graduated from Bentley College with a BS in Accountancy and received an MBA from Northeastern University. Mr. Francis is a Certified Public Accountant. He is a member of the American Institute of Certified Public Accountants, the Massachusetts Society of CPAs, and a former member of the East Coast Committee of the National Investment Company Service Association (NICSA).

**Van C. Khang, Forensic Accountant**

During the past two years at the firm, Van C. Khang has worked on many cases that have resulted in significant client recoveries including, suits against Symbol Technologies, ICG Communications and Lernout & Hauspie.

Prior to her tenure at Berman DeValerio, Ms. Khang worked as a manager in the Global Investigations and Dispute Advisory Services Group for the accounting firm of Ernst & Young and, previously, as a senior consultant and staff auditor.

Ms. Khang graduated from the University of Massachusetts in 1998 with a B.S in Accounting and Finance. In 1993, she earned a B.S. in Molecular Biology from the University of Connecticut. Ms. Khang is a Certified Public Accountant in Massachusetts.

**OFFICES**

**MASSACHUSETTS**

One Liberty Square  
Boston, MA 02109  
Phone: (617) 542-8300  
Fax: (617) 542-1194

**FLORIDA**

222 Lakeview Ave., Suite 900  
West Palm Beach, FL 33401  
Phone: (561) 835-9400  
Fax: (561) 835-0322

**CALIFORNIA**

425 California Street, Suite 2100  
San Francisco, CA 94104  
Phone: (415) 433-3200  
Fax: (415) 433-6382

# # #

**EXHIBIT E**

**FIRM RESUME OF  
ZWERLING, SCHACHTER & ZWERLING, LLP**

The firm of Zwerling, Schachter & Zwerling, LLP was formed on January 1, 1985 (the “Zwerling Firm”), and is currently involved in numerous class actions in the areas of securities fraud, consumer fraud, and antitrust litigation.

**Securities Litigation**

The Zwerling Firm has acted or is presently acting as a lead counsel or as a member of an executive committee for plaintiffs in many securities related lawsuits, including: *In re Vonage Initial Public Offering (IPO) Securities Litigation*, Civ. Action No. 07-177 (FLW) (D.N.J.); *In re BP Prudhoe Bay Royalty Trust Securities Litigation*, W.D. Wash. No. C06-1505 MJP; *Diana Allen Life Insurance Trust v. BP plc, et al.*, S.D.N.Y. Civ. No. 06-14209 (PJC); *In re First BanCorp Securities Litigation*, D.P.R. Civ. No. 3:05-cv-02148-PG; *Fox v. Levis, et al.*, S.D.N.Y. No. MD C 06-1506 (RO); *In re Silicon Image, Inc. Securities Litigation*, N.D. Cal. Master File No. C 05-00456 (MMC); *In re: Old Banc One Shareholders Securities Litigation*, N.D. Ill. Civ. No. 00C2100; *In re Network Associates Derivative Litigation*, Superior Ct. Cal., Santa Clara Cty., CV 781854; *In re Telxon Corporation Securities Litigation*, N.D. Ohio, 5:98-CV-2876; *Hayman v. PriceWaterhouseCoopers LLP*, N.D. Ohio 01-CV-1078; *In re Corrections Corporation Shareholder Litigation*, Tennessee Chancery Ct., Master File No. 98-1257-iii; *In re Adaptec Inc. Derivative Litigation*, Superior Ct. Cal., Santa Clara Cty., CV 772590; *In re Pacific Scientific Securities Litigation*, C.D. Cal., No. SACV-96-1106-LHM(EEx); *Kaplan v. Prins Recycling Corp.*, D.N.J., 96 Civ. 2444; *In re Health Management Inc. Securities Litigation*, E.D.N.Y., 96 Civ. 889; *Weikel v. Tower Semiconductor, Ltd.*, D.N.J., 96 CV 03711; *In re Bennett Funding Group Inc. Securities Litigation*, S.D.N.Y., 96 Civ. 2583; *In re Horizon/CMS*

*Healthcare Corporation Securities Litigation*, D.N.M., Master File No. 96-044 BB/LCS; *Rosenberg v. Stauth*, W.D. Okla., Civil Action No. 96-1808-M; *In re Solomon, et al. v. Armstrong*, Del. Chan. Ct., CA No. 13515 (the “GM/EDS Split-off Litigation”); *In re Archer Daniels Midland Company Derivative Litigation*, Del. Ch. Ct., Cons. C.A. No. 14403; *In Re American Pacific Securities Litigation*, D. Nev., CV-S-93-00576-PMP; *McNeil v. Austin*, Sup. Ct., N.Y. Co., Index No. 33189/91, *In Re Foodmaker/Jack-in-the-Box Securities Litigation*, W.D. Wash., No. C93-517WD; *In re Ames Department Stores, Inc. Stock Litigation*, D. Conn., 90-00027 (PCD); *In Re: General Development Corporation Securities Litigation*, S.D. Fla., 90-069; *In Re Republic Pictures Corporation Shareholders Litigation*, Del. Chan. Ct., C.A. No. 13122; *In Re Blockbuster Entertainment Corp. Shareholders Litigation*, Del. Chan. Ct., Civil Action No. 13319; *In re First Capital Holdings Corporation Financial Products Securities Litigation*, C.D. Cal., MDL No. 901; *In re New World Securities Litigation*, C.D. Cal., CV 88-06260; *In re Anchor Securities Litigation*, E.D.N.Y., 88 Civ. 3024; *3Com Corp. Securities Litigation*, N.D. Cal., C89-20480; *In re Par Pharmaceutical Derivative Litigation*, S.D.N.Y., 89 Civ. 5497 (RPP); *Fishbein v. Resorts International Inc.*, S.D.N.Y., 89 Civ. 6043 (MGC); *In re Bank of Boston Securities Litigation*, D. Mass., 89-2269-H; *In re Howard Savings Bank Securities Litigation*, D.N.J., 89-5131; *Merrit v. Gulf States Utilities Co.*, E.D. Tex., B-86-574-CA.

In addition, the Zwerling Firm represents or has represented public employee pension funds and union pension funds in securities litigation, including: *In Re: Doral Financial Corp. Securities Litigation*, S.D.N.Y., Case No.: 1:05-md-1706 (RO); and *Clinton Charter Township Police and Fire Retirement Systems v. Donald J. Reckler, et al.*, E.D.N.Y., Case No.: 03 CV 5008 (TCP).



The following is a representative sample of the complex securities claims which the Zwerling Firm has litigated:

- *In re First BanCorp Securities Litigation*, D.P.R. Civ. No. 3:05-cv-02148-PG, co-lead counsel in securities fraud class action involving sham mortgage sales transactions between Puerto Rico banks. The Zwerling Firm achieved a \$74.25 million settlement in less than eighteen months of litigation, which is pending court approval.

- *Hayman v. PriceWaterhouseCoopers, LLP*, N.D. Ohio, 01-cv-1078, brought on behalf of investors in Telxon Corp. securities against the company's auditors for issuing false opinions on the company's financial statements. The Zwerling Firm obtained a recommendation for a default judgment against PriceWaterhouseCoopers, LLP and subsequently settled the action for \$27.9 million.

- *In re Telxon Corp. Securities Litigation*, N.D. Ohio 5:98-cv-2876, a securities fraud class action where the Zwerling Firm, as sole lead counsel obtained a settlement of \$40 million on behalf of investors. Class members in the PriceWaterhouseCoopers and Telxon actions received over 70% of their losses in the two settlements.

- *In re Corrections Corporation Shareholder Litigation*, Tennessee Chancery Ct., Master File No. No. 98-1257-iii - shareholder class action challenging a management-led buyout of public shareholders in exchange for shares in a publicly held REIT.

- *In re Bennett Funding Group Inc. Securities Litigation*, S.D.N.Y., 96 CV 2583 - securities fraud class action involving the single largest alleged Ponzi scheme in the United States. The Zwerling Firm has been on the Executive Committee successfully prosecuting the accountants, insurers, and sellers of the alleged fraudulent securities.

- *In re Health Management Inc. Securities Litigation*, E.D.N.Y., 96 Civ. 889 - securities fraud class action alleging accounting fraud by the company and its auditors. The Zwerling Firm was co-lead trial counsel in the first case tried pursuant to the Private Securities Litigation Reform Act of 1995.

- *Rosenberg v. Stauth*, Civil Action No. 96-1808-M - shareholders' derivative action involving alleged improper business practices at Fleming Companies, Inc. in which the demand futility defense was successfully defeated.

- *In re ICN/Viratek Securities Litigation*, S.D.N.Y., 87 Civ 4296- securities fraud class action involving FDA sought approval of an HIV drug.

- *McNeil v. Austin*, Index No. 33189/91 - shareholders' derivative action regarding the sale of defective nuclear containment systems by General Electric.

· *In re Adaptec Inc. Derivative Litigation*, Master File No. CV 772590 and *In re Network Associates Derivative Litigation*, Superior Ct. Cal., Master File No. CV 781854—shareholders’ derivative lawsuits pursuant to California’s insider trading statute to recover profits from the company’s officers and directors.

· *In re Ames Department Stores, Inc. Stock Litigation*, D. Conn., 90-00027 (PCD) - securities fraud class action in which the Second Circuit reaffirmed the scope of the “in connection with” requirement of the Securities Exchange Act §10(b).

Courts have commented favorably upon the expertise of the Zwerling Firm. In appointing the firm as lead counsel in *In re Old Banc One Shareholders Securities Litigation*, N.D. Ill., 1:00-CV-2100, the Court noted that the “attorneys have extensive experience, many successes on their resumes, and have obtained sizable recoveries on behalf of their clients.” Minute Order, dated December 21, 2000.

In appointing it as lead counsel in *In re Telxon Corporation Securities Litigation*, N.D. Ohio, 5:98-CV-2876, the Court determined that the Zwerling Firm has “the requisite ability and expertise to prosecute and manage this litigation effectively.” Memorandum and Order entered August 25, 1999, p. 39.

As a member of a team of plaintiffs’ trial counsel in *In re ICN/Viratek Securities Litigation*, S.D.N.Y., 87 Civ 4296, the Zwerling Firm was complimented by Judge Kimba Wood as having done a “superb job on behalf of the class.... This was a very hard fought case. You had very able, superb opponents, and they put you to your task.... The trial work was beautifully done and I believe very efficiently done....”

In *In re Par Pharmaceutical, Inc. Derivative Litigation*, S.D.N.Y., 89 Civ 5742 (RPP), Judge Patterson, in commenting on the Zwerling Firm, said “[they] acted skillfully and resourcefully.... [The Zwerling Firm] exercised wisdom and judgment and negotiated a skillful

settlement with the defending company and with the officer and director/defendants.” (Slip Op. June 12, 1992).

Chief Judge Weinstein, in the *Jack Eckerd Corporation* litigation (E.D.N.Y. 1986), and Judge Charles P. Sifton in both *Golden v. Shulman* [1988 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶94,060 (E.D.N.Y. 1988) and *Cagan v. Anchor Savings Bank, FSB*, [1990] Fed. Sec. L. Rep. (CCH) ¶94,060 (E.D.N.Y. 1990) also commented favorably upon the Zwerling Firm.

One of the partners of the Zwerling Firm was appointed by former Chief Judge Browning as Proof-of-Claim Counsel in connection with the loss analysis in *In re Washington Public Power Supply System Securities Litigation*, MDL 551, in the United States District Court for the District of Arizona. In that matter, former United States District Judge Nicholas J. Bua, as Special Master appointed by the Court, in commenting on one of the partners in the firm, said: “I . . . find that the services of Mr. Schachter were efficiently and reasonably performed by him personally.... Mr. Schachter specifically was appointed by the District Court to serve as Claims Counsel.... It was not unreasonable for a senior partner like Mr. Schachter, with his vast knowledge of the case, to directly oversee the claims administration process rather than relying upon less knowledgeable junior attorneys. The class received its money’s worth for Mr. Schachter’s services....”

#### **Antitrust / Consumer Litigation**

The Zwerling Firm has acted or is presently acting as a lead counsel or member of an executive committee in numerous class actions involving antitrust claims and deceptive trade practices, including: *In Re Oxycontin Litigation*, S.D.N.Y., 04 MDL No. 1603; *In re Neurontin Antitrust Litigation*, D.N.J., MDL No. 1479; *In re Tamoxifen Antitrust Litigation*, E.D.N.Y., MDL No. 1408; *Karofsky v. Abbott Laboratories, et al.*, Case No. CV-95-1009 (as well as in 10

related cases in other state courts); *In Re Lorazepam and Clorazepate Antitrust Litigation*, D.D.C., MDL-1290 (TFH) (as well as in 11 related cases in state courts); *Newman v. DuPont Merck Pharmaceutical Company*, Superior Ct. Cal., Case No. 788358; *In Re Ciprofloxacin Hydrochloride Antitrust Legislation*, E.D.N.Y., Master File No. CV-00-4428 MDL No. 1383; *Pickett v. Holland America Line*, 2000 WL 1141052 (Wash. App. Div. 1); *Latman v. Costa Cruise Lines*, N.V., 758 So.2d 699 (2000); *Renaissance Cruises, Inc. v. Glassman*, 738 So.2d 436 (1999) (as well as in 7 related cases in other state courts); *Garcia v. General Motors Corporation*, N.J. Superior Ct., Docket No. L-4394-95; *In re Playmobil Antitrust Litigation*, E.D.N.Y., 95 Civ. 2896; and *Boni v. America Online Inc.*, Del. Chancery, New Castle County, 95-C-07 and *Feige v. America Online Inc.*, Sup. Ct., N.Y. County, Index No. 118333/95) (as well as other related cases in state courts).

In the antitrust area, the firm is currently on the Steering Committee for plaintiffs in *In Re: Insurance Brokerage Antitrust Litigation*, D.N.J., MDL No. 1663 04-CV-5184 and 05-CV-5533 (“*Insurance Brokers*”). In *Insurance Brokers*, settlements totaling over \$128 million have been reached with two of the many defendant groups. The Zwerling Firm also currently plays a significant role in the prosecution of *Funeral Consumers Alliance, Inc. et al. v. Service Corporation International, et al.*, S.D. Tex., CA No. H-05-cv-03394 (KMH), a major antitrust multi-district litigation.

The Zwerling Firm is one of the three class counsel in *Rodriguez v. West Publishing Corporation*, C.D. Cal., Case No. 05-3222, where a \$49 million settlement of antitrust claims has been reached, pending final court approval, on behalf of a class of law graduates enrolled in the BAR/BRI bar review courses.

The Zwerling Firm also represents union health and welfare funds in litigation to recover damages for price-fixing and other anti-competitive behavior. Such actions include: *In re Norvir Abbott Laboratories Antitrust Litigation*, N.D.Ca., Case No. 04-1511; *In re: Oxycontin Antitrust Litigation*, S.D.N.Y., 04 MDL 1603 (SHS); *In Re Tamoxifen Citrate Antitrust Litigation*, E.D.N.Y., MDL No. 1408 (ILG); *In re Ciprofloxacin Hydrochloride Antitrust Litigation*, E.D.N.Y., Master File No.: 1:00-MD-1383 (DGT).

In *In re Norvir Abbott Laboratories Antitrust Litigation*, N.D.Ca., Case No. 04-1511, the Zwerling Firm represents the SEIU International Health Fund against Abbott Laboratories in an action for monopoly leveraging under Section 2 of the Sherman Antitrust Act, as well as the California Unfair Competition law and state law unjust enrichment. On June 13, 2007, the court certified a nationwide class for injunctive relief under the Sherman Antitrust Act and for money damages under the unjust enrichment laws of 48 of the 50 States; the SEIU was appointed to serve as a class representative. A trial in this matter is scheduled for the fall of 2008.

In *In Re Oxycontin Litigation*, S.D.N.Y., 04 MDL No. 1603, the Zwerling Firm represents Local 1199 National Benefit Fund and has been appointed third-party payor co-lead counsel. This matter challenges the monopoly pricing of Oxycontin, a pain killer, the patents for which are in question. The matter is currently stayed pending the resolution of the underlying patent litigation.

The Zwerling Firm was appointed co-lead counsel for plaintiffs in numerous related indirect purchase actions brought against Mylan Laboratories, Inc. regarding injury to competition and monopolization, as well as price fixing. Those actions included an action in federal court, *In Re Lorazepam & Clorazepate Antitrust Litigation*, D.D.C., MDL-1290 (TFH)

and resulted in settlements of over \$100 million. The plaintiffs represented by the Zwerling Firm included several institutions, such as union health funds and private insurers.

The Zwerling Firm was co-lead counsel and a member of the Executive Committee in eleven actions filed against the major pharmaceutical manufacturers alleging violations of state antitrust laws for charging higher prices to consumers who purchased brand name prescription drugs from retail pharmacies. Those cases resulted in a \$65 million settlement. The courts presiding over those cases have commented on the Zwerling Firm's expertise:

- I think the lawyering in this case is most commendable. I think that both sides have accorded themselves in a manner that allows us to be proud of the profession. . .

*Kerr v. Abbott Laboratories, et al.*, Case No. 96-2837, Transcript of Hearing at 16-17. (Dist. Ct. Hennepin County, Minn., Nov. 24, 1998).

- this Court, in particular, has been helped along every step of the way by some outstanding lawyering . . . You can hardly say that there's been anything but five star attorneys involved in this case.

*Scholfield v. Abbott Laboratories, et al.*, Case No. 96 CV 460, Transcript of Hearing at 31 & 33. (Cir. Ct. Dane County, Wisc., Oct. 5, 1998).

- I think the quality of counsel is excellent.

*McLaughlin v. Abbott Laboratories, et al.*, Case No. CV 95-0628, Transcript of Hearing at 28. (Super. Ct. Yavapai County, Ariz., Oct. 28, 1998).

- I'll join my learned colleagues from this and other jurisdiction[s] in commending counsel in arriving at something that represents a great deal of hard work and a great deal of ingenuity in putting together a settlement of this magnitude and complexity, and especially the cost effective way in which this settlement is proposed to be distributed.

*Karofsky v. Abbott Laboratories, et al.*, Case No. CV-95-1009, Transcript of Hearing at 17. (Super. Ct. Cumberland County, Maine, Dec. 2, 1998).

In addition, the Zwerling Firm represented consumers who were victims of overcharging in the sale of toys in *In re Playmobil Antitrust Litigation*, E.D.N.Y., 95 Civ. 2896. Judge Seybert



complimented the work of Class Counsel, including the Zwerling Firm, stating in her opinion certifying the Class:

As set forth in greater detail in the firm resumes...: (1) Zwerling, Schachter & Zwerling, LLP [and three other firms] ... all have extensive familiarity with the prosecution of complex litigations, class actions and specifically, antitrust litigations.... This is further borne out by counsels' submissions and conduct to date before this Court.

*In re Playmobil Antitrust Litigation*, 1998 WL 966003 at \*13 (E.D.N.Y. Dec. 30, 1998).

In the area of deceptive trade practices, the Zwerling Firm was lead counsel in coordinated nationwide actions against the world's leading passenger cruise lines regarding their advertising practices concerning "port charges." (*Cicogna v. Royal Caribbean Cruises, Ltd.*, Cir. Ct. Dade Co. 96-08075; *Espinete v. Kloster Cruise Ltd.*, Cir. Ct. Dade Co. 96-08076; *Bellikoff v. Celebrity Cruises Inc.*, Cir. Ct. Dade Co. 96-08077; *Hackbarth v. Carnival Cruise Lines Inc.*, Cir. Ct. Dade Co. 96-08078; *Glassman v. Renaissance Cruises, Inc.*, Cir. Ct. Broward Co. 96-005490; *Pickett v. Holland America Line*, Sup. Ct., King Co. (Wash.) 96-2-10831 ("*Pickett*"), *Barton v. Princess Cruises Inc.*, Sup. Ct., L.A. Co. BC 148448); *Millheiser v. Dolphin Cruise Line*, Cir. Ct. Dade Co. 96-18146; *Latman v. Costa Cruise Lines N.V.*, Cir. Ct. Dade Co. 96-18139; and *Cronin v. Cunard Cruise Line*, Sup. Ct., N.Y. Co., 96-115899). These cases resulted in settlements in excess of \$100 million. In *Pickett*, the Court complimented the firm by declaring that "[t]his has been litigated very professionally from the beginning to the end."

In addition, the Zwerling Firm was involved in cases regarding defective automobile brakes (*McGill v. General Motors Corp.*, Sup. Ct., Bronx Co., Index No. 15525-95) (related to *Garcia v. General Motors Corp.*, N.J. Superior Ct., Docket No. L-4394-95) and defective pacemakers (*Gould v. Telectronics Pacing Systems*, S.D. Ohio, 95-726).

The Zwerling Firm was appointed Administrator for the General Motors Diesel Litigation Fund under the direction of Judge Henry Bramwell, District Judge, United States District Court, Eastern District of New York.

**Other Complex Litigation**

In *County of Nassau v. Hotels.com, L.P.*, E.D.N.Y., Case No. 2:06-cv-05724, the Zwerling Firm represents Nassau County (NY) in a class action seeking to recover unpaid taxes from internet-based hotel reservation companies on behalf of a class consisting of all New York counties and municipalities.

In addition, the Zwerling Firm has also represented union health and welfare funds in litigation against the tobacco industry. Those claims were for the excess costs incurred by the funds in providing health care to the members of their unions as a result of the fraudulent and deceptive practices of the tobacco companies (*Eastern States Health & Welfare Fund, et al. v. Philip Morris, Inc., et al.*, Sup. Ct. N.Y. Co., Index No. 97/603869).

The Zwerling Firm has been counsel in high profile constitutional and civil rights actions. In *Haley v. Pataki*, N.D.N.Y., 95-CIV 550, the firm obtained an order forcing the Governor of the State of New York to stop withholding salaries from legislative employees in an attempt to coerce members of the State Legislature to vote on his State budget. In a related case, *Dugan v. Pataki*, Sup. Ct., Kings Co., Index No. 16341/95, the firm obtained the same relief for the elected members of the State Legislature.

The Zwerling Firm has represented the New York City Council in *Mayor of the City of New York v. Council of the City of New York*, Sup. Ct., N.Y. Co., Index No. 402354/95, an action in which the Mayor challenged the legislative powers of the City Council in connection with the establishment of a board to review allegations of police corruption.

The Zwerling Firm also represented the Straphangers Campaign, a mass transit advocacy group, in *New York Urban League v. Metropolitan Transportation Authority*, 95-CIV-9001 (RPP), an action to compel the State of New York and the MTA to allocate transit subsidies in a manner which does not have a discriminatory impact on minority ridership in New York City.

The Zwerling Firm was an active member of the 9/11 Union Project where it provided legal representation *pro bono* for low income victims of the World Trade Center attacks and their families.

### **Members of the Firm**

#### **Jeffrey C. Zwerling**

Jeffrey C. Zwerling was admitted to the bar of the State of New York in 1972 and to the bar of the State of Arizona in 1981; he is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York and the United States Court of Appeals for the Second Circuit. He received a Bachelor of Science degree with Honors from Lehigh University in 1968 and a Juris Doctor degree from Columbia University School of Law in 1971. He was Articles Editor of the Columbia Journal of Transnational Law. His professional affiliations include: New York State Bar Association, Association of the Bar of the City of New York, Nassau County Bar Association, and State Bar of Arizona.

On July 1, 1977, Mr. Zwerling founded the Law Offices of Jeffrey C. Zwerling; on January 1, 1985 that firm became Zwerling, Schachter & Zwerling, LLP. Prior to 1977, Mr. Zwerling was associated with the firms of Gasperini, Koch & Savage; Koch & Gluck; and Murray A. Gordon, P.C., with emphasis on civil litigation, real estate, general corporate and commercial matters. Mr. Zwerling has represented and advised the Uniformed Fire Officers Association in regard to its pension funds and annuity plans.

Mr. Zwerling has extensive experience in all phases of complex litigation, including jury and non-jury trials, mediation, expert discovery, and settlement negotiations. He has negotiated several innovative corporate governance and structural changes in the resolution of shareholders' complaints. He is highly knowledgeable about economic and finance issues.

Mr. Zwerling is located in both the firm's New York and Long Island offices.

**Robert S. Schachter**

Robert S. Schachter was admitted to the bar of the State of New York in 1972; he is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York and the Central District of California, the United States Court of Appeals for the Second, Fifth and Ninth Circuits, and the Supreme Court of the United States. He received a Bachelor of Arts degree from Syracuse University in 1968 and a Juris Doctor degree from Brooklyn Law School in 1971. His professional affiliations include: The American Bar Association (Lecturer, Panels in Class Actions, 1980 and 1998) and the Second Circuit Federal Bar Council. Mr. Schachter was a panelist at the Public Funds Summit (2002-2004), Investment Education Symposium sponsored by the Council of Louisiana Trustees (2002), and Fire & Police Pension Summit (2002).

Prior to the formation of the Zwerling Firm, Mr. Schachter was associated since 1973 with the firm now known as Labaton Sucharow & Rudoff LLP. Mr. Schachter became a partner of that firm on January 1, 1978, concentrating in complex multi-district litigation.

Mr. Schachter has extensive experience in all phases of complex litigation. He has been involved in many settlement negotiations, as well as the drafting of complex settlement documents, and has particular expertise in the administration of class settlements. Mr. Schachter

has been instrumental in crafting novel settlements which have been applauded by courts in securities, as well as antitrust matters, including corporate governance issues.

Mr. Schachter is located in the firm's New York office.

**Robin F. Zwerling**

Robin F. Zwerling was admitted to the bar of the State of New York in 1976; she is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York, the United States Court of Appeals for the Second, Fourth and Seventh Circuits, and the Supreme Court of the United States. She received a Bachelor of Arts degree *cum laude* from Jackson College of Tufts University in 1972, and a Juris Doctor degree from Georgetown University Law Center in 1975. Her memberships include: the American Bar Association, the National Institute of Trial Advocacy, the National Association of Securities and Commercial Law Attorneys, and the Second Circuit Federal Bar Council.

Ms. Zwerling has concentrated in litigation since her graduation from law school. At that time, she became associated with Martin, Clearwater & Bell, becoming a partner in 1982 and remained there until the formation of the Zwerling Firm in 1985. Ms. Zwerling has extensive experience in all phases of litigation, including trials and appellate arguments. She has tried cases in both state and federal courts. Ms. Zwerling successfully completed the National Institute of Trial Advocacy's Advanced Trial Practice course after having tried a number of cases.

Ms. Zwerling is located in the firm's New York office.

**Susan Salvetti**

Susan Salvetti was admitted to the bar of the State of New York in 1980; she is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York. She received a Bachelor of Arts degree *summa cum laude* from Thomas More College of Fordham University in 1976 and a Juris Doctor degree from Fordham University School of Law in 1979. Her memberships include: the American Bar Association, the New York State Bar Association – Committee Member of the Commercial and Federal Litigation Section on Class Actions, Who's Who in American Women, and Phi Beta Kappa.

Ms. Salvetti has concentrated in litigation throughout her career, becoming a partner of the Zwerling Firm on January 1, 1992. Prior to her association with the firm in 1985, she was associated with Martin, Clearwater & Bell. Prior to that time, Ms. Salvetti was associated with Newman, Tannenbaum, Helpern & Hirschttritt, a general practice firm.

Ms. Salvetti has extensive experience in all phases of complex litigation, including as trial counsel and complex discovery. She has taken numerous depositions, argued motions before courts, and has negotiated complicated settlements in both securities and consumer matters.

Ms. Salvetti is located in the firm's New York office.

**Richard A. Speirs**

Richard A. Speirs was admitted to the bar of the State of New York in 1986; he is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York, and the United States Court of Appeals for the Tenth Circuit. He received a Bachelor of Arts degree *cum laude* from Brooklyn College of the City University of



New York in 1976. Mr. Speirs received his Juris Doctor degree from Brooklyn Law School in 1985, where he was awarded the Order of the Coif and was the recipient of American Jurisprudence Awards in Conflicts of Law and Labor Law. He is a member of the New York State Bar Association and the Second Circuit Federal Bar Council. Mr. Speirs was a panelist at the Public Funds Summit in 2007.

Mr. Speirs became a partner of the firm on January 1, 2000. Prior to his association with the Zwerling Firm in 1997, Mr. Speirs was an associate of Bernstein Litowitz Berger & Grossmann LLP where he concentrated primarily in securities and class action litigation.

Mr. Speirs has extensive experience in all phases of complex litigation, including the investigation and analysis of potential matters and the development of electronic discovery requirements. He has conducted many depositions of both fact and expert witnesses and has acted as trial counsel.

Mr. Speirs is located in the both the firm's New York and Long Island offices.

### **Senior Counsel**

#### **Hillary Sobel**

Hillary Sobel was admitted to the bar of the State of New York in 1989; she is also admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York and the United States Court of Appeals for the Fourth and Ninth Circuits. She received a Bachelor of Arts Degree from Barnard College of Columbia University in 1985, and a Juris Doctor degree from the Benjamin N. Cardozo School of Law of Yeshiva University in 1988, where she was Editor of the ILSA International Law Journal. Her memberships include: the American Bar Association.

Ms. Sobel has been involved in complex discovery, including responding to and drafting discovery requests, questioning fact and expert witnesses, as well as arguments before the court. She has also participated at trial, including witness questioning, as well as trial preparation.

Ms. Sobel is located in the firm's New York office.

**Stephen L. Brodsky**

Stephen L. Brodsky was admitted to the bar of the State of New York in 1994; he is also admitted to the United States District Court for the Southern and Eastern Districts of New York and the United States Court of Appeals for the Third and Eighth Circuits. He received a Bachelor of Arts degree *summa cum laude* from the University of Pennsylvania in 1989, and a Juris Doctor degree from Columbia Law School in 1993, where he was a Harlan Fiske Stone Scholar and member of the Columbia Journal of Law and Social Problems. His memberships include: Phi Beta Kappa.

Mr. Brodsky has published "Federal Courts in New York Provide Framework For Enforcing Preliminary Agreements," in the New York State Bar Association Journal (March/April 2001) and "Defending an Agent Against a Claim for Breach of Warranty of Authority," NY Litigator (Spring 2001). Prior to joining the Zwerling Firm, Mr. Brodsky was associated with Sonnenschein Nath & Rosenthal, LLP.

Mr. Brodsky is located in the firm's New York office.

**Associates of the Firm**

**Sona R. Shah**

Sona R. Shah was admitted to the bar of the State of New Jersey in 1997, and to the bar

of the State of New York in 1998; she is also admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York. She received a Bachelor of Arts degree from New York University in 1994, and a Juris Doctor degree from Fordham University School of Law in 1997. Her professional affiliations include: the New York State Bar Association.

Prior to her association with the Zwerling Firm, Ms. Shah was associated with the Center for Constitutional Rights.

Ms. Shah is located in the firm's New York office.

**Shaye J. Fuchs**

Shaye J. Fuchs was admitted to the bar of the State of New Jersey in 1999 and to the bar of the State of New York in 2000; he is also admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York. He received a Bachelor of Arts degree *magna cum laude* from Queens College of the City University of New York in 1995, and a Juris Doctor degree from Brooklyn Law School in 1998. His memberships include: the American Bar Association, the New York County Lawyers Association, and Phi Beta Kappa.

Prior to his association with the Zwerling Firm, Mr. Fuchs interned at the New York Stock Exchange Enforcement Division and has been of counsel in securities class action lawsuits.

Mr. Fuchs is located in the firm's Long Island office.

**Justin M. Tarshis**

Justin M. Tarshis was admitted to the bar of the State of New York in 2003; he is also admitted to the United States District Court for the Southern and Eastern Districts of New York. He received a Bachelor of Science degree from the University of Wisconsin in 1999, and a Juris Doctor degree *cum laude* from Brooklyn Law School in 2002. While in law school, Mr. Tarshis was the recipient of the Samuel L. Sporn Academic Achievement Scholarship and the CALI Excellence for the Future Award in Civil Practice. In addition, Mr. Tarshis served as an intern to the Honorable Shira A. Scheindlin of the Southern District of New York, as well as an intern in the New York State Attorney General's Office.

Mr. Tarshis is located in the firm's New York office.

**Kevin M. McGee**

Kevin M. McGee was admitted to the bar of the State of New York in 1996 and to the bar of the State of Florida in 2003. He is admitted to the United States District Court for the Southern District of Florida. He received a Bachelor of Arts degree *cum laude* from the State University of New York at Stonybrook in 1990 and a Juris Doctor degree from Fordham University School of Law in 1995. At Fordham, Mr. McGee was a member of the Moot Court Board.

Prior to his association with the Zwerling Firm, Mr. McGee was a Senior Counsel in the Enforcement Division of the United States Securities and Exchange Commission. In that position, Mr. McGee investigated potential violations of federal securities laws, prosecuted alleged violations of securities laws, conducted settlement negotiations, took testimony, conducted depositions, and worked with United States Attorneys in investigating and prosecuting

cases. Cases he worked on involved, for example, Ponzi schemes, pump and dump schemes, insider trading, and accounting irregularities.

Mr. McGee is located in the firm's Boca Raton office.

**Paul Kleidman**

Paul Kleidman was admitted to the bar of the State of New York in 2002; he is also admitted to the United States District Court for the Southern and Eastern Districts of New York. He received a Bachelor of Science degree from Boston University in 1998, and a Juris Doctor degree from the State University of New York at Buffalo School of Law in 2001. While in law school, Mr. Kleidman was the recipient of the Martin Feinrider Merit Scholarship. He served as Business Editor of the Buffalo Human Rights Law Review and was a Senior Member of the Jessup International Moot Court Board.

Prior to joining the Zwerling Firm, Mr. Kleidman was an Assistant Corporation Counsel in the General Litigation Division of the New York City Law Department. There, he worked on high profile class action lawsuits, including *Benjamin v. Horn* in the Southern District of New York.

Mr. Kleidman is located in the firm's New York office.

**Stephanie E. Kirwan**

Stephanie E. Kirwan was admitted to the bar of the State of New Jersey in 2004, and to the bar of the State of New York in 2005; she is also admitted to the following federal courts: the United States District Court for the District of New Jersey, and the United States District Court for the Southern and Eastern Districts of New York. She received a Bachelor of Arts degree

from Tufts University in 2000, and a Juris Doctor degree *cum laude* from New York Law School in 2004, where she was an associate editor for the Law Review. Her professional associations include: the New York State Bar Association, the New York County Lawyers Association; and the New York State Trial Lawyers Association.

Prior to her association with the Zwerling Firm, Ms. Kirwan was associated with the Renzulli Law Firm where her practice concentrated in litigation.

Ms. Kirwan is located in the firm's New York office.

**David R. Kromm**

David R. Kromm was admitted to the bar of the State of New York in 2001. He received a Bachelor of Arts degree and graduated with Departmental Honors from Wheaton College in 1997, and a Juris Doctor degree from St. John's University School of Law in 2000, where he was Editor-in-Chief of the St. John's Journal of Legal Commentary. While in law school, Mr. Kromm served as an intern with the United States Attorney's Office, Southern District of New York. His professional affiliations include the New York State Bar Association.

Prior to his association with the Zwerling Firm, Mr. Kromm worked as a criminal trial prosecutor with the Office of the District Attorney, Bronx County (New York) for six years. As a prosecutor, he was lead counsel in approximately two dozen criminal trials.

Mr. Kromm is located in the firm's New York office.

**Ana Cabassa**

Ana Maria Cabassa was admitted to the bar of the State of New York in 2001 and to the bar of the District of Columbia in 2002; she is admitted to the following federal courts: the

United States District Court for the District of Columbia, and the Tax Court. She received a Bachelor of Science degree in Accounting and Finance, *magna cum laude*, from Georgetown University in 1995 and a Juris Doctor degree from New York University, School of Law in 2000. She received the Thomas Stoddard Award for editing contributions to the Journal of Legislation and Public Policy. Her professional affiliations include: American Bar Association and New York State Bar Association.

Ms. Cabassa is also a Certified Public Accountant.

Prior to her association with the Zwerling Firm, Ms. Cabassa was associated with Latham & Watkins, LLP, where she represented clients in antitrust, securities and complex commercial litigation matters.

Ms. Cabassa has extensive experience in all phases of complex litigation, including the investigation and analysis of potential matters and the development of electronic discovery requirements.

Ms. Cabassa is located in the firm's New York office.

### **Of Counsel**

#### **Dan Drachler**

Dan Drachler was admitted to the bar of the State of New York in 1988; he is also admitted to the bar of the States of Washington, New Jersey and Minnesota; he is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York, the United States District Court for the Western and Eastern Districts of Washington, and the United States Court of Claims. Mr. Drachler received a Bachelor of Arts degree *cum laude* from the University of South Carolina in 1980, and his Juris Doctor degree



*cum laude* from New York Law School in 1987. At New York Law School, Mr. Drachler was a member of the law review and was a John Ben Snow Merit Scholar. His professional affiliations include: the American Bar Association, the Washington State Bar Association, the King County Bar Association, and the National Association of Consumer Advocates.

Prior to joining the Zwerling Firm, Mr. Drachler served as Chief Deputy Attorney General for the State of New York. In that position, all litigation and administrative proceedings in the Securities Bureau were subject to Mr. Drachler's review. Mr. Drachler also regularly counseled state agencies and the Governor's office regarding a variety of legal and non-legal matters. From 1987 to 1993, Mr. Drachler was an associate and then partner of Koppell, Drachler & Lipofsky. At that firm, he concentrated in general civil litigation, real estate, and trusts and estates.

Mr. Drachler was an Adjunct Professor at New York Law School from 1992-97. He taught "Negotiation, Counseling and Interviewing," a course designed to develop skills in counseling clients and conducting negotiations in simple and complex matters.

Mr. Drachler is located in the firm's Seattle office.

### **Joseph Lipofsky**

Joseph Lipofsky was admitted to the bar of the State of New Jersey in 1972, and is also admitted to the bar of the States of New York, Missouri and Michigan; he is admitted to the following federal courts: the United States District Court for the Southern and Eastern Districts of New York, the District of New Jersey, the Eastern District of Missouri, the Eastern District of Michigan, and the Supreme Court of the United States. He received a Bachelor of Science degree from Rider College in 1969, and a Juris Doctor degree *cum laude* from Seton Hall

University School of Law in 1972. His professional affiliations include: the American Bar Association; the New York State Bar Association, where he serves on the Executive Committee of the Antitrust Section; the National Lawyers Guild; and the National Association of Consumer Advocates. He also serves as a Board Member for Brooklyn Legal Services Corporation A; and for the Sugar Law Center for Economic and Social Justice.

Prior to joining the Zwerling Firm, Mr. Lipofsky served as Deputy Counsel to the Attorney General of New York. In that capacity, he regularly counseled state agencies and the Governor's office regarding a variety of legal and non-legal matters. From 1991 to 1993, Mr. Lipofsky was counsel to the firm of Koppell & Drachler and then partner of Koppell, Drachler & Lipofsky. Prior to 1991, he served as an attorney and Executive Director with legal service programs in New Jersey, Missouri and Michigan, as well as with various labor unions including their ERISA funds.

Mr. Lipofsky is located in the firm's New York office.

#### **Jonathan Platnick**

Jonathan Platnick was admitted to the bar of the State of New York in 1979. Mr. Platnick received a Bachelor of Arts degree *magna cum laude* from The City University of New York 1971, and his Juris Doctor degree from the New York University School of Law in 1978.

His memberships include: Phi Beta Kappa.

Mr. Platnick is located in the firm's New York office.

**Timothy E. Gillane**

Timothy E. Gillane was admitted to the bar of State of New York in 1988; he is also admitted to the United States District Courts for the Southern and Eastern Districts of New York. He received a Bachelor of Arts degree *cum laude* from the University of Connecticut in 1973, a Masters of Arts degree from Boston College (where he also taught under a fellowship) in 1975, and a Juris Doctor degree from New York Law School in 1987. His professional affiliations include the Brehon Law Society.

Prior to joining the Zwerling firm, Mr. Gillane was a staff attorney at Robin, Schepp, Yuhas, Doman & Harris, where his practice concentrated in litigation.

Mr. Gillane is located in the firm's Long Island Office.

**Lisa Holman**

Lisa Holman was admitted to the bar of the State of New York in 1998. She received a Bachelor of Arts degree from Cornell University in 1994, and a Juris Doctor degree from the University of Michigan Law School in 1997. Her memberships include the American Bar Association and the New York State Bar Association.

Prior to joining the Zwerling Firm, Ms. Holman practiced corporate law and securities litigation with Goodkind Labaton Rudoff & Sucharow, LLP, now known as Labaton Sucharow & Rudoff LLP.

Ms. Holman is located in the firm's New York office.